



## Board of Selectmen

36 BARTLET STREET  
ANDOVER, MA 01810

[WWW.ANDOVERMA.GOV](http://WWW.ANDOVERMA.GOV)

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### MEETING AGENDA

Monday, May 15, 2017

Regular Session 7:00 P.M.

SELECTMEN'S CONFERENCE ROOM, ANDOVER TOWN OFFICES, 3<sup>rd</sup> floor

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#### REGULAR SESSION

I. Call to Order – 7:00 P.M.

II. Opening Ceremonies/ Moment of Silence/Pledge of Allegiance – 7:00 P.M.

III. Communications/Announcements/Liaison Reports – 7:05 P.M.

IV. Citizens Petitions and Presentations – 7:10 P.M.

V. Public Hearings – 7:15 P.M.

A. Bay State Gas Company – (20 minutes)

This hearing is being held on a petition of Bay State Gas Company d/b/a Columbia Gas of Massachusetts, requesting permission to excavate for the purpose of replacing and/or extending its gas mains, according to blueprints hereto annexed and made a part of this petition, and to make the necessary house connections along said extensions, as follows:

- Abandoning the low pressure gas main after replacing and tying over all the services from low to high pressure main on Lowell Street from North Main to Beacon Street and Lincoln Street from Lowell Street to Cyr Circle.
- To excavate approximately 1,500 feet on Canterbury Street from Lowell Street to Stafford Lane for the purpose of replacing the Cast Iron / Bare Steel – low pressure gas main with Plastic – high pressure due to a planned town paving project.
- To excavate approximately 1,215 feet on Cyr Circle for the purpose of replacing the Bare Steel – low pressure gas main with Plastic – high pressure.
- To excavate approximately 350 feet on Chadwick Circle for the purpose of replacing Bare Steel – low pressure gas main with Plastic – high pressure.

All existing gas services within the project scope will be tied into the new Plastic – high pressure main.

RECEIVED  
TOWN CLERK'S OFFICE  
2017 MAY 11 P 4:05  
TOWN OF ANDOVER, MASS

**B. Bay State Gas Company – (20 minutes)**

This hearing is being held on a petition of Bay State Gas Company d/b/a Columbia Gas of Massachusetts, requesting permission to excavate for the purpose of replacing and/or extending its gas mains, according to blueprints hereto annexed and made a part of this petition, and to make the necessary house connections along said extensions, as follows:

To excavate approximately 1,200 feet on **Marion / Henderson Avenues** from **Lupine** to **Central Street** for the purpose of replacing the **Cast Iron / Bare Steel**-intermediate pressure gas main with **Plastic – high pressure** due to a planned town paving project. All existing gas services within the project scope will be tied in to the new **Plastic – high pressure** main.

- o The intermediate gas main on **School Street / Lupine Road** from **Essex** to **Central Street** will be tied over to high pressure mains.
- o Also as part of this project, the regulator station on **Essex Street** will be abandoned.

**VI. Regular Business of the Board – 7:55 P.M.**

**A. SCRPT Workers – (5 minutes)**

Board of Selectmen to consider voting to increase the amount paid to the SCRPT Workers from \$1,000 to \$1,100 annually effective 7/1/17.

**B. Acceptance of Gregory Circle – (10 minutes)**

Board of Selectmen to consider voting to accept and sign the open space deed at Gregory Circle Subdivision Parcel B.

**C. Balmoral Dam Grant Agreement Amendment (5 minutes)**

Board of Selectmen to approve additional time extension for the removal of the Balmoral Dam and authorize the Town Manager to sign the amended Grant Agreement.

**VII. Consent Agenda – 8:10 P.M.**

**A. APPOINTMENTS – (Town Manager)**

That the following appointments by the Town Manager be approved:

DEPARTMENT/ COMMITTEE	NAME	POSITION	RATE/ TERM	DOH
Scholarship Committee	Phillip Giguere	Committee Member	June 2017	
Municipal Services	Matthew J. Byrne T-8-S	Temp/Summer/Seasonal Laborer	\$11.00/hr.	5/17/17

**VIII. Adjournment – 8:15 P.M.**

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View documents associated with this agenda: [www.andoverma.gov/selectmen](http://www.andoverma.gov/selectmen)

Meetings are televised on Comcast Channel 22 and Verizon Channel 45 or may be viewed online at [www.andovertv.org](http://www.andovertv.org) If any member of the public wishing to attend this meeting seeks special accommodations in accordance with the Americans with Disabilities Act, please contact Wendy Adams at 978-623-8210 or [wadams@andoverma.gov](mailto:wadams@andoverma.gov) in the Town Manager's Office.

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# TOWN OF ANDOVER

## Town Clerk's Office

36 Bartlet Street  
Andover, MA 01810  
978-623-8230  
townclerk@andoverma.gov

### NOTICE

You are hereby notified that a Public Hearing will be held by the Andover Board of Selectmen at the Town Offices on Bartlet Street, in the third floor Selectmen's Conference Room on Monday, May 15, 2017 at 7:00 P.M.

This hearing is being held on a petition of Bay State Gas Company d/b/a Columbia Gas of Massachusetts, requesting permission to excavate for the purpose of replacing and/or extending its gas mains, according to blueprints hereto annexed and made a part of this petition, and to make the necessary house connections along said extensions, as follows:

- Abandoning the low pressure gas main after replacing and tying over all the services from low to high pressure main on Lowell Street from North Main to Beacon Street and Lincoln Street from Lowell Street to Cyr Circle.
- To excavate approximately 1,500 feet on **Canterbury Street** from Lowell Street to Stafford Lane for the purpose of replacing the Cast Iron / Bare Steel – low pressure gas main with Plastic – high pressure due to a planned town paving project.
- To excavate approximately 1,215 feet on **Cyr Circle** for the purpose of replacing the Bare Steel – low pressure gas main with Plastic – high pressure.
- To excavate approximately 350 feet on **Chadwick Circle** for the purpose of replacing Bare Steel – low pressure gas main with Plastic – high pressure.
- All existing gas services within the project scope will be tied into the new Plastic – high pressure main.

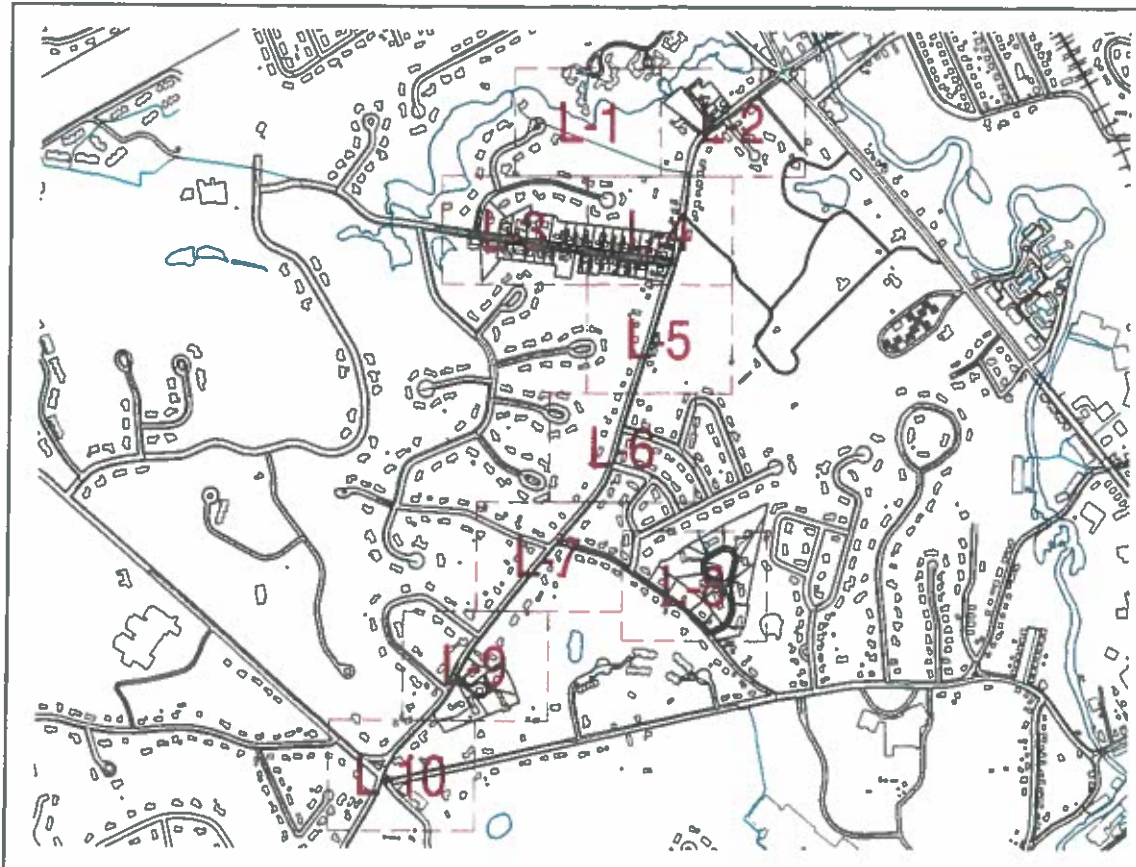
Plan(s) of the proposed work can be found on the Town of Andover web site at [www.andoverma.gov](http://www.andoverma.gov) in the May Meetings Calendar by searching under the public hearing date.

Should you have any major concerns about this proposal, please call Vinnie Luciano or Veena Kothapalli at Columbia Gas, 978-691-6422, prior to the above-mentioned Selectmen's meeting date. A representative of the company will be available at 6:45 P.M. on the above date to answer any other questions you may have relating to the proposed work.

By order of the  
Board of Selectmen

Lawrence J. Murphy  
Town Clerk

Date: May 5, 2017  
Plan# 16-40913, Job# 16-0848544-00



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1:4	1:4
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1:8	
1:7	1:8
1:9	
1:10	



**PROPOSED**

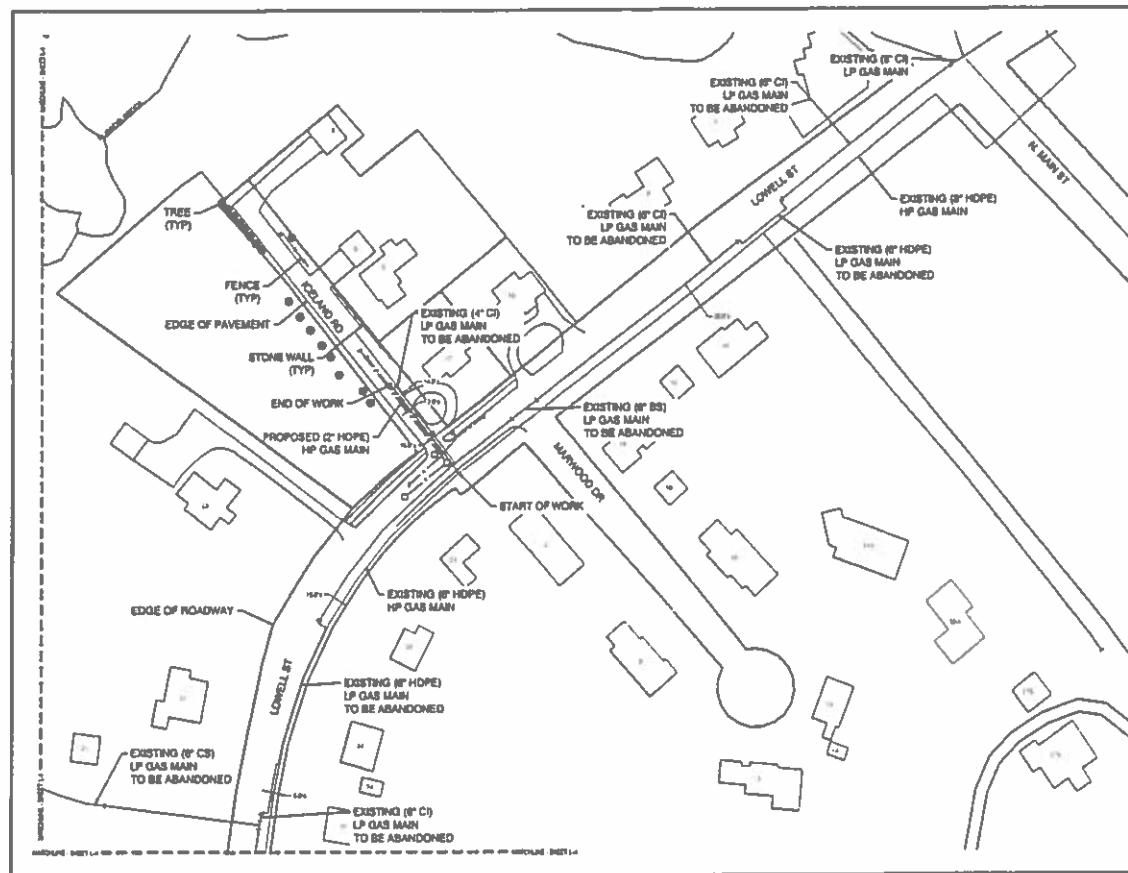
REVISIONS			
NO.	DATE	DESCRIPTION	BY

JO# 18-0848544-00  
 JO# 18-0848545-00  
 PROJECT ID# 18-40913  
 UNITS: 1  
 SHEETS: 1

PROJECT: 18-40913  
 OVERVIEW SHEET

SHEET NO.  
 0-1





811

Now with 811. Call before you dig.

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LI	LI
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LI	LI



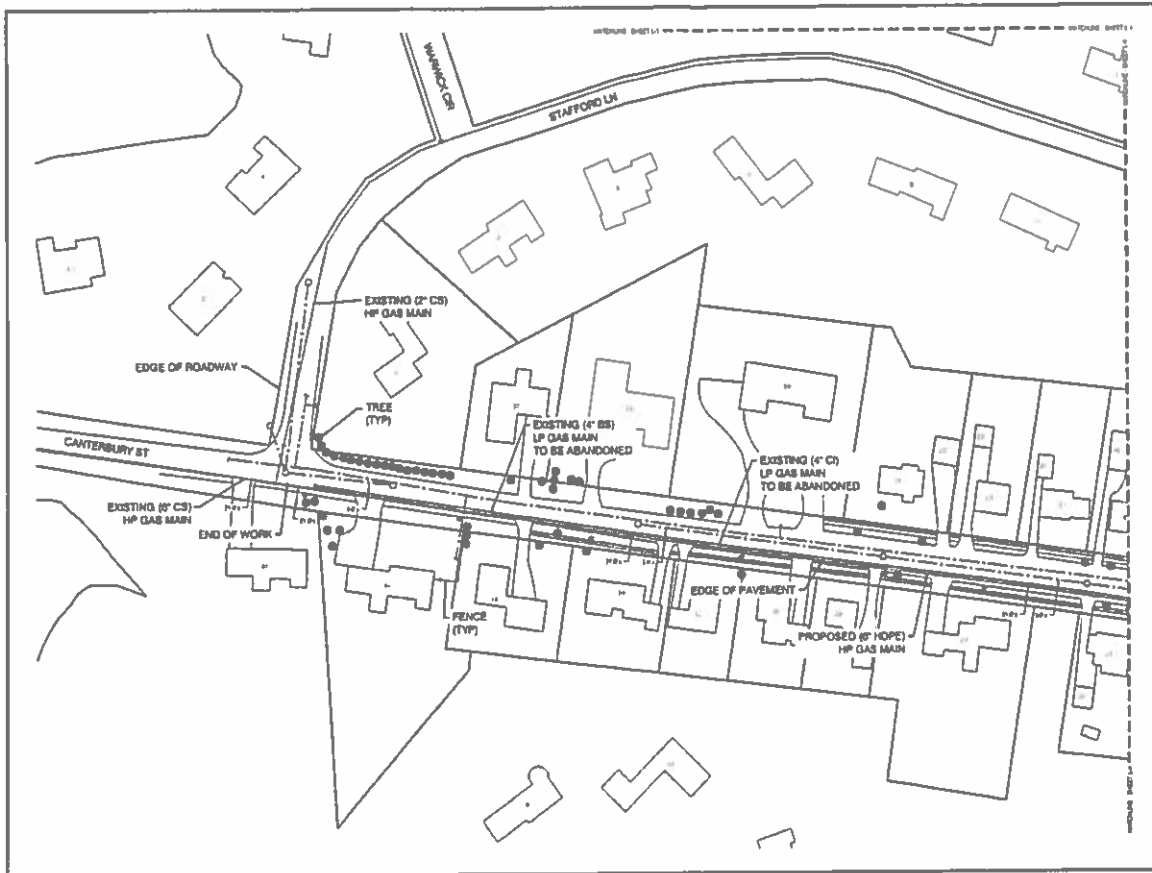
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NO. 9	NO. 10
NO. 11	NO. 12
NO. 13	NO. 14
NO. 15	NO. 16
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NO. 91	NO. 92
NO. 93	NO. 94
NO. 95	NO. 96
NO. 97	NO. 98
NO. 99	NO. 100

JOB # 18-0648844-00  
 JO# 18-0648844-00  
 PROJECT ID# 18-00813  
 (Scale in feet)

PROJECT TITLE  
 LAYOUT SHEET

REVISION  
 L-2



Call before you dig

SYSTEM	
L-1	L-2
L-3	L-4
L-5	L-6
L-7	L-8
L-9	L-10



PROPOSED

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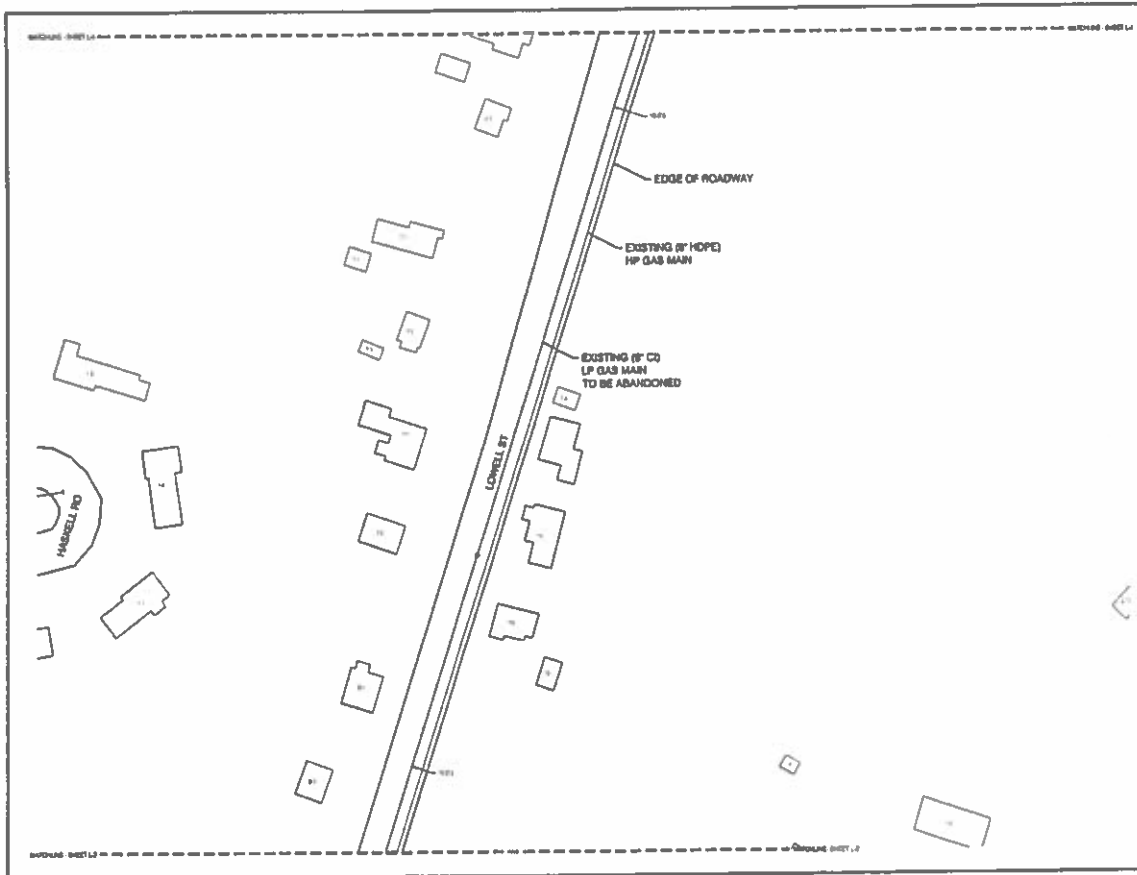
DATE	BY	CHKD	APP'D

PROJECT TITLE  
LAYOUT SHEET

PROJECT NO.  
L-3







KEY PLAN

L-1	L-2
L-3	L-4
L-5	L-6
L-7	L-8
L-9	L-10



PROPOSED

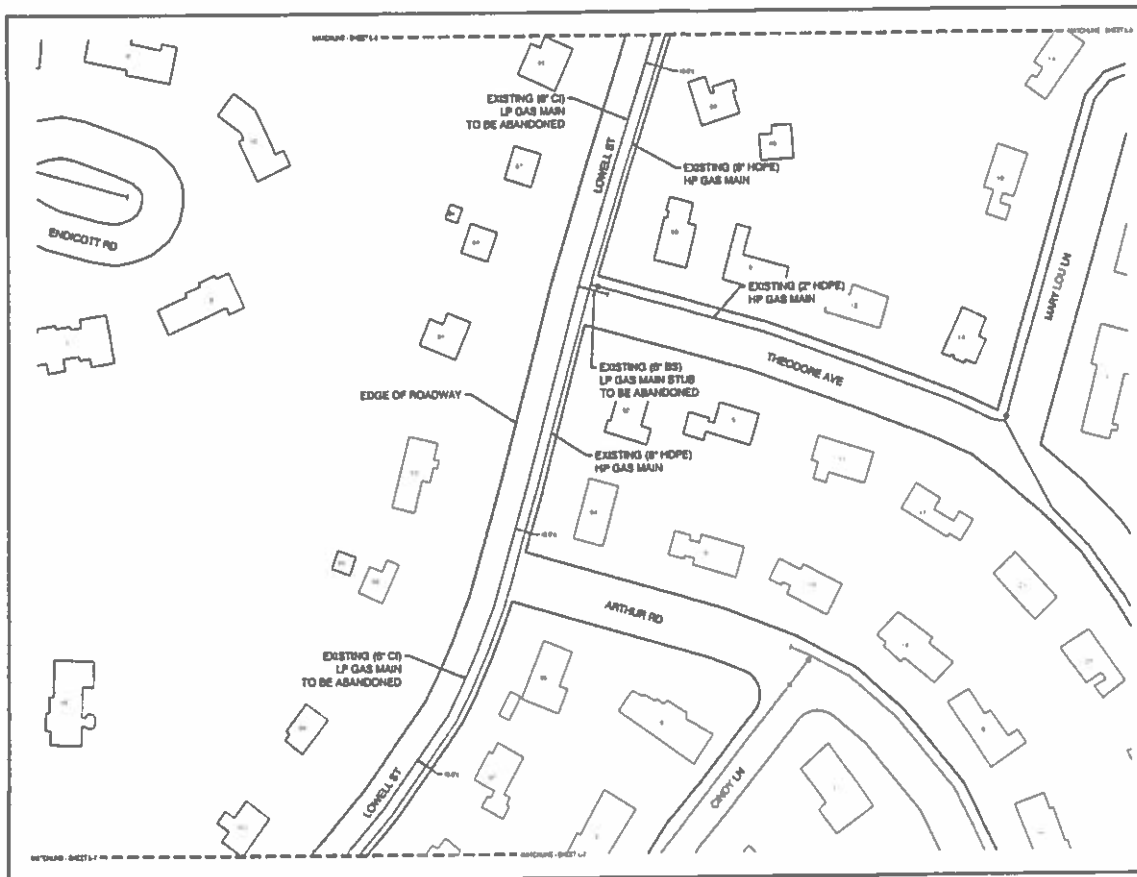
REVISIONS

NO.	DATE	DESCRIPTION

PROJECT  
 JOP # 16-0848544-00  
 JOP # 16-0848548-00  
 PROJECT ID# 16-40913  
 LOWELL ST  
 ANDOVER, MA

PROJECT  
 LAYOUT SHEET

Sheeting No.  
 L-5



City Map

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L-7	L-8
L-9	L-10



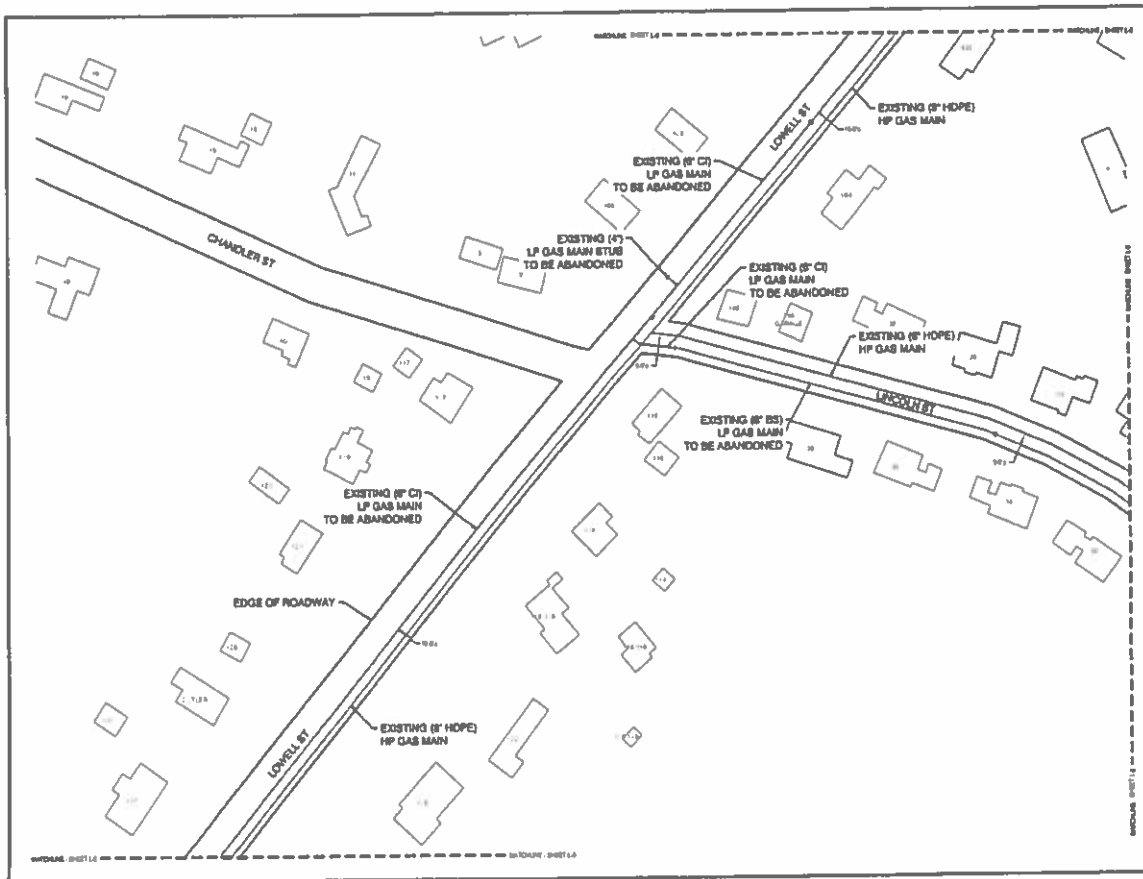
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PROJECT  
 JOB# 18-0648544-00  
 JOB# 18-0648546-00  
 PROJECT ID# 18-40013  
 LITTLE ROCK  
 ARKANSAS 72203

PROJECT FSA  
 LAYOUT SHEET

SHEET NO.  
 L-6



**NDS**  
NORTH DAKOTA  
SOUTHERN

**811**  
Before you dig, call 811

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**PROJECT DATA**

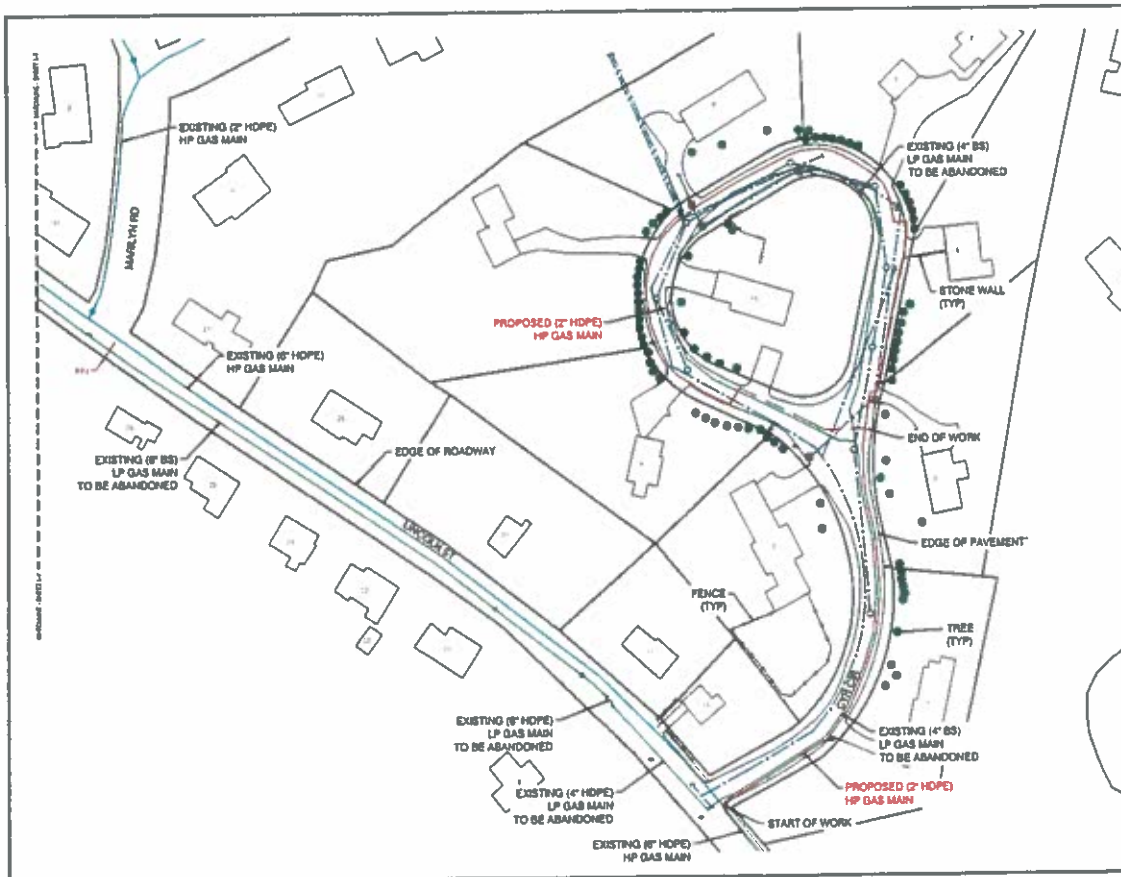
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JO# 16-084848-00  
PROJECT ID# 16-40813  
APPROVAL  
APPROVED

**PROJECT DATA**

LAYOUT SHEET

**PROJECT DATA**

L-7



call before you dig

STATION	1-1	1-2	1-3	1-4	1-5	1-6	1-7	1-8	1-9	1-10



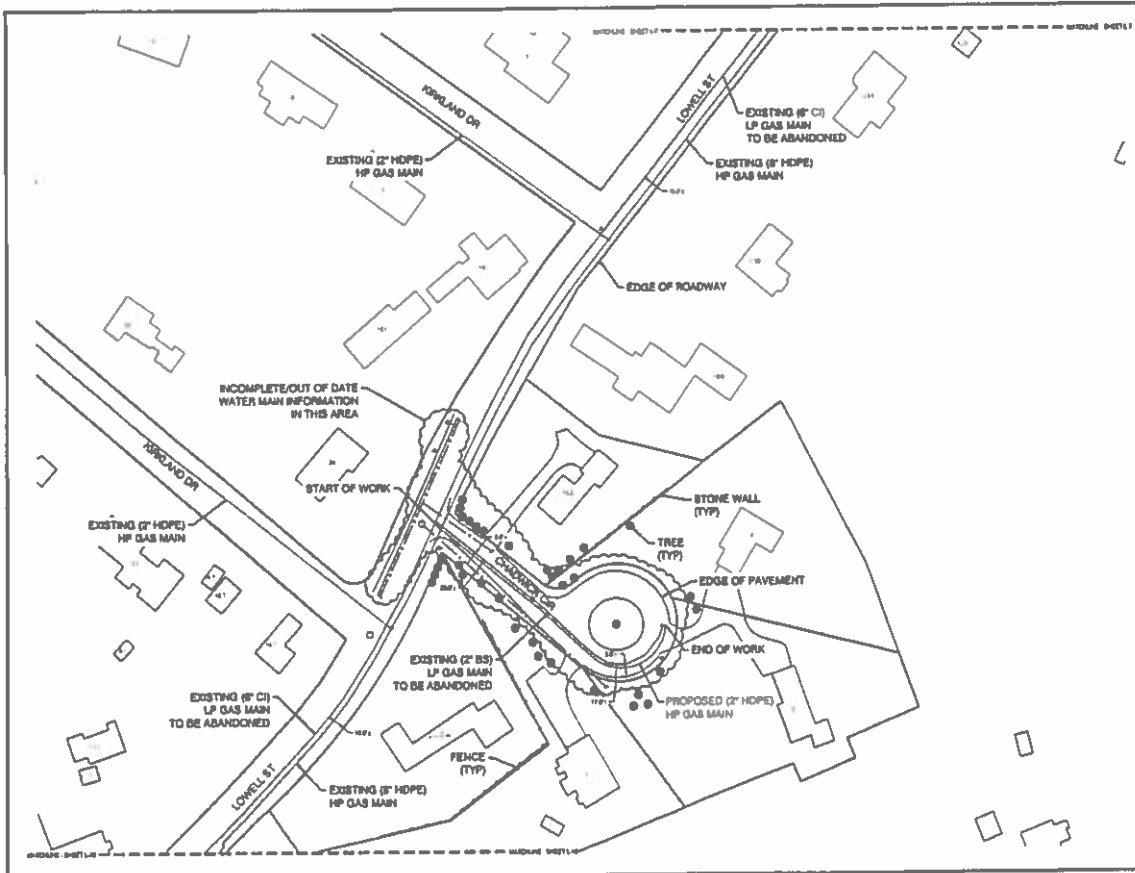
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JOB # 18-084844-00  
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 PROJECT ID# 18-40813  
 UNITS: FT  
 ANGLE: DEGS

PROJECT TITLE  
 LAYOUT SHEET

Sheet No.  
 L-8



**811**  
Know what's below.  
Call before you dig.

SEE PLAN

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L-7	L-8
L-9	L-10

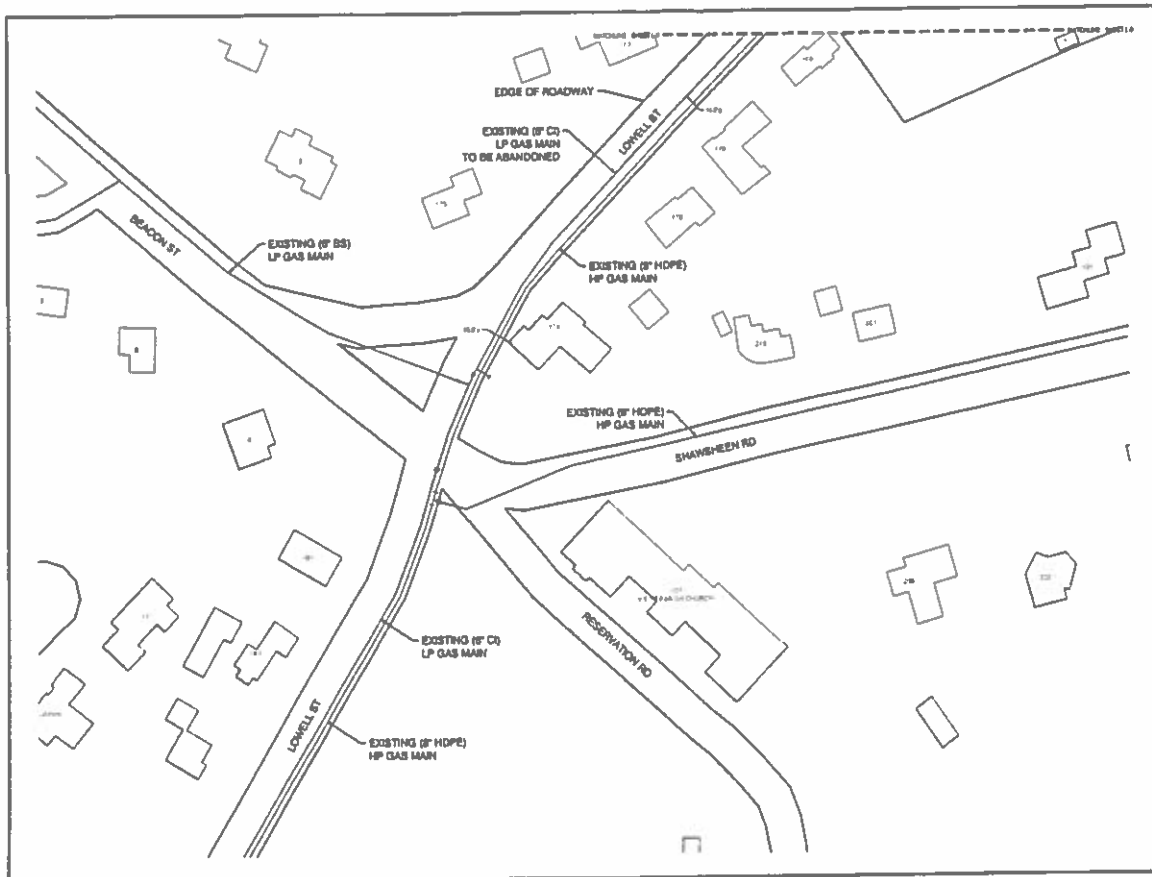


REVISIONS			
NO.	DATE	BY	DESCRIPTION

JOB# 16-0848844-00  
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 PROJECT ID# 16-42913  
 OFFICE: ST. LOUIS  
 DRAWING: L-9

PROJECT FILE  
 LAYOUT SHEET

DRAWING NO.  
**L-9**



Know what's below.  
Call before you dig.



PROPOSED

REVISIONS

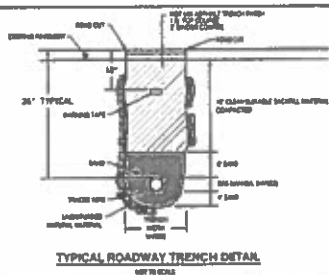
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PROJECT  
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JOB # 18-0646545-00  
PROJECT ID# 18-06813  
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APPROVED BY

PROJECT CMA  
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REVISIONS  
L-10

### AS-BUILT NOTES

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Super stuff below.  
Call before you go.

**PROPOSED**

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JO# 18-084844-00  
JO# 18-084845-00  
PROJECT ID# 18-40013  
UNIVERSITY OF  
SOUTHERN CALIFORNIA

Page 134

## CONSTRUCTION DETAILS

1992

D-1



# TOWN OF ANDOVER

## Town Clerk's Office

36 Bartlet Street  
Andover, MA 01810  
978-623-8230  
townclerk@andoverma.gov

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Plan(s) of the proposed work can be found on the Town of Andover web site at [www.andoverma.gov](http://www.andoverma.gov) in the Mail Meetings Calendar by searching under the public hearing date.

Should you have any major concerns about this proposal, please call Vinnie Luciano or Veena Kothapalli at Columbia Gas, 978-691-6422, prior to the above-mentioned Selectmen's meeting date. A representative of the company will be available at 6:45 P.M. on the above date to answer any other questions you may have relating to the proposed work.

By order of the  
Board of Selectmen

Lawrence J. Murphy  
Town Clerk

Date: May 5, 2017  
Plan# 16-40934  
Job# 17-0849455-00



**A NiSource Company**

**JOB TYPE: BUDGET NAME (557/558)**

[illegible]

Ques.	DESCRIPTION
1-4	WILL QUEST
Q-1	OVERVIEW QUEST
1-2 1-3	STRUCTURE
Q-1	CONSTRUCTION DETAILS

[illegible]

THE PROPOSED GAS MAIN SYSTEM IS APPROXIMATELY AND SUBJECT TO CROSS  
PROPERTY LINE STRUCTURES STREET LINE ETC ARE COMPLETE THE COLUMBIA GAS  
BARS ONE AND TWO TO BE CONSIDERED APPROXIMATE  
EXISTING UTILITIES DEPICTED THEREIN ARE NOT OBTAINED FROM ABOVE ENCLAVE  
SURVEY ONLY AND ARE TO BE CONSIDERED APPROXIMATE COLUMBIA GAS DOES NOT  
WARRANT THE LOCATION OF THE UNDERGROUND UTILITIES DEPICTED HEREIN NOR ALL  
EXISTING UTILITIES AND/OR SUBSTRUCTURE STRUCTURES ARE SHOWN

[illegible][illegible]

1 THE PROPOSED GAS MAIN SYSTEM IS APPROXIMATELY AND SUBJECT TO CHANGE  
2 PROPERTY LINE STRUCTURES STREET LINE ETC ONE COMPLETE THE COLUMBIA GAS  
3 DATA SHEET AND TO BE CONSIDERED APPROXIMATE  
4 EXISTING UTILITIES DEPT. OF PUBLIC WORKS SHALL BE OBTAINED FROM ABOVE SOURCES  
5 SURVEYED ONLY AND ARE TO BE CONSIDERED APPROXIMATE COLUMBIA GAS DOES NOT  
6 GUARANTEE THE LOCATION OF THE UNDERGROUND UTILITIES SYSTEM OR THAT ALL  
7 EXISTING UTILITIES ARE OR SUBSURFACE STRUCTURES ARE SHOWN



Know what's below.  
Call before you dig.

**PROPOSED**

JO# 17-0849458-00  
JO# 16-0848658-00  
PROJECT ID# 16-49934  
LAWYER  
JANUARY 2003

DocuSign Envelope ID: 82929282

**TITLE SHEET**

2000-01

T-1

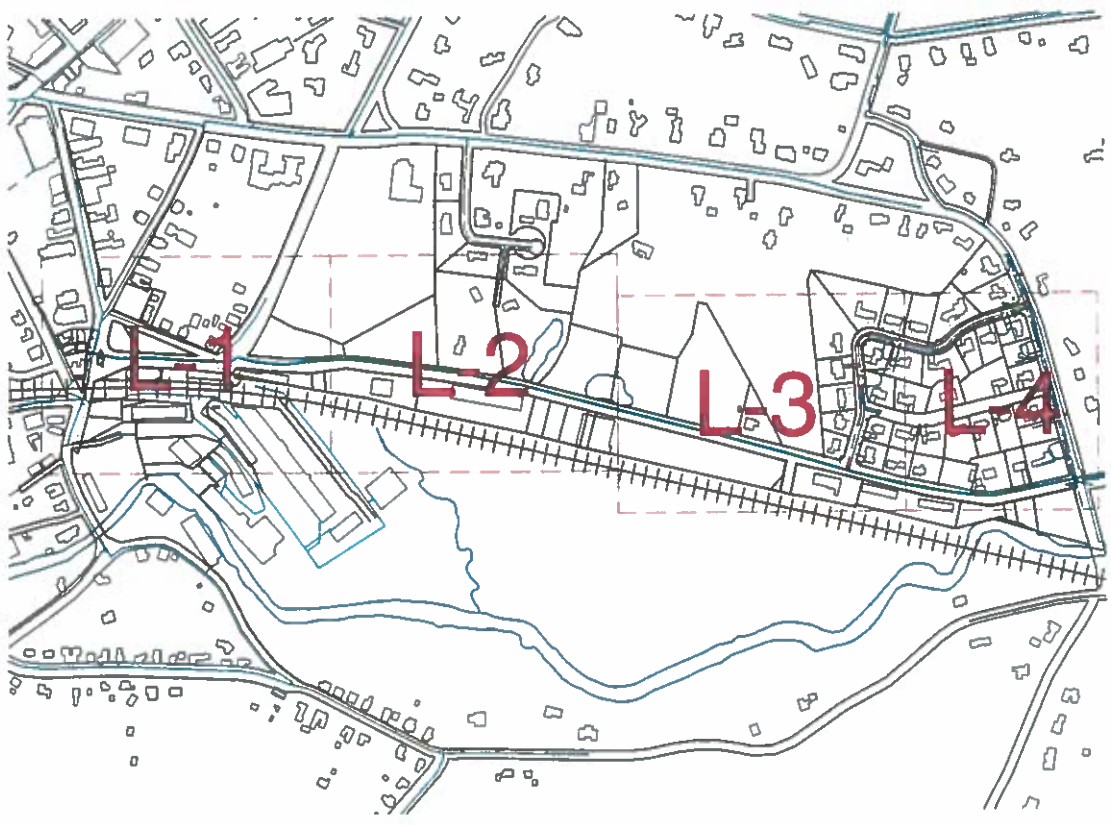


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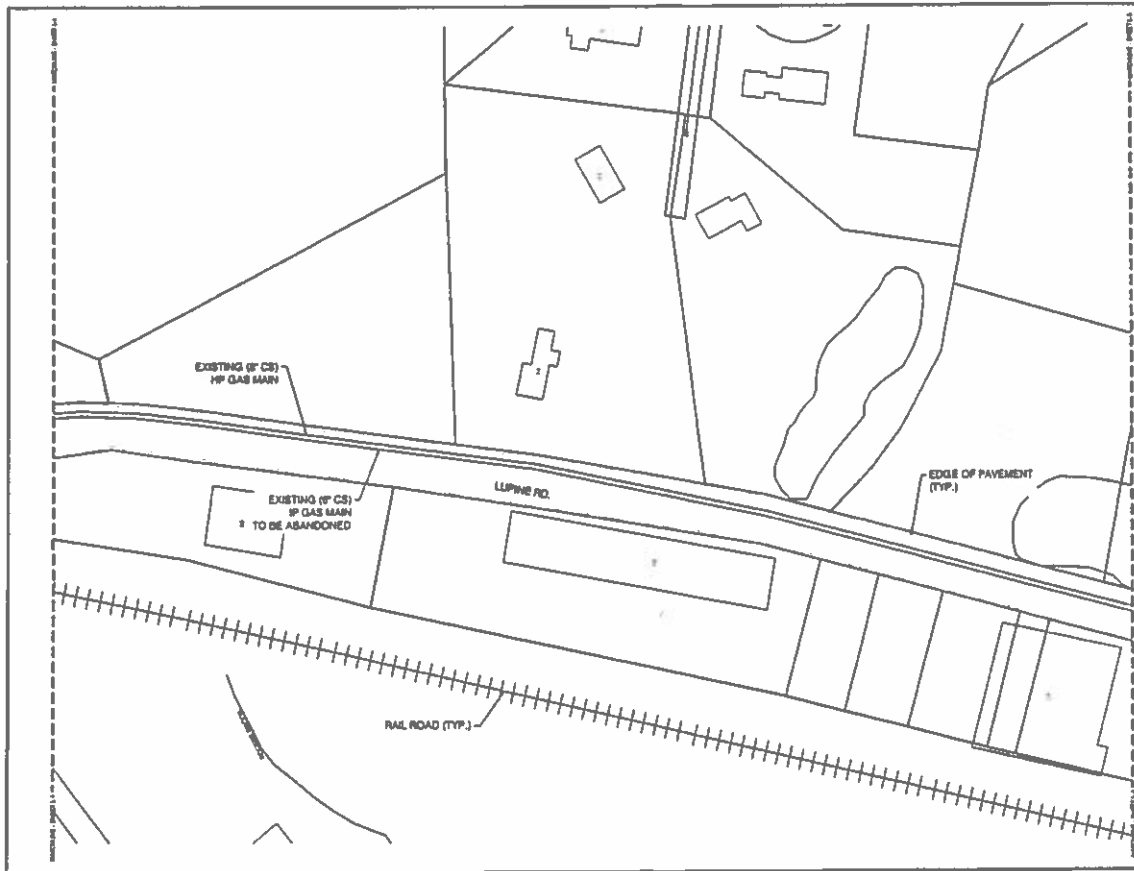
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JOB # 18-0848888-00  
PROJECT ID # 18-00004  
DATE OF  
ISSUED FOR REVIEW

PROJECT NO.  
OVERVIEW SHEET

PROJECT NO.  
0-1





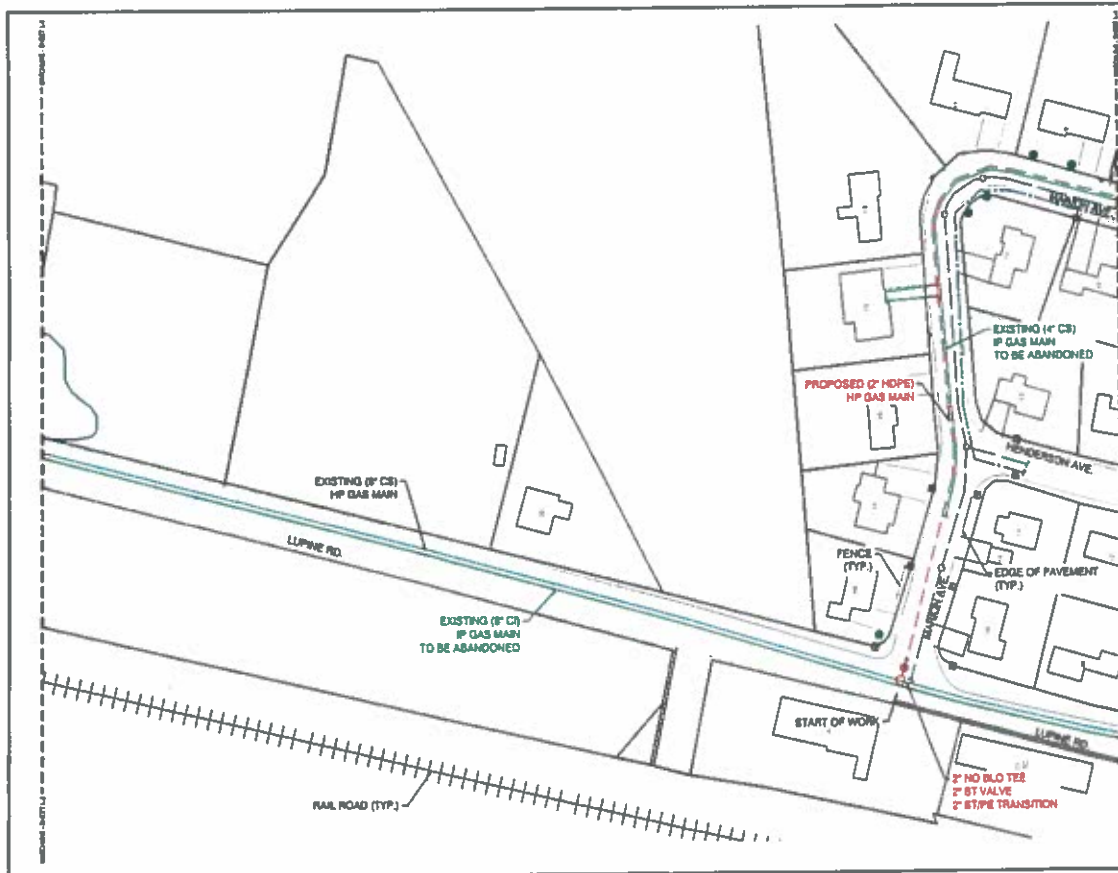


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PROJECT NO.  
JOB # 17-0848453-00  
JOB # 18-0848453-00  
PROJECT ID# 15-48834  
SHEET NO.  
SECTION 0800

PROJECT FILE  
LAYOUT SHEET

Sheeting NO.  
L-2



811  
Know what's below.  
Call before you dig.  
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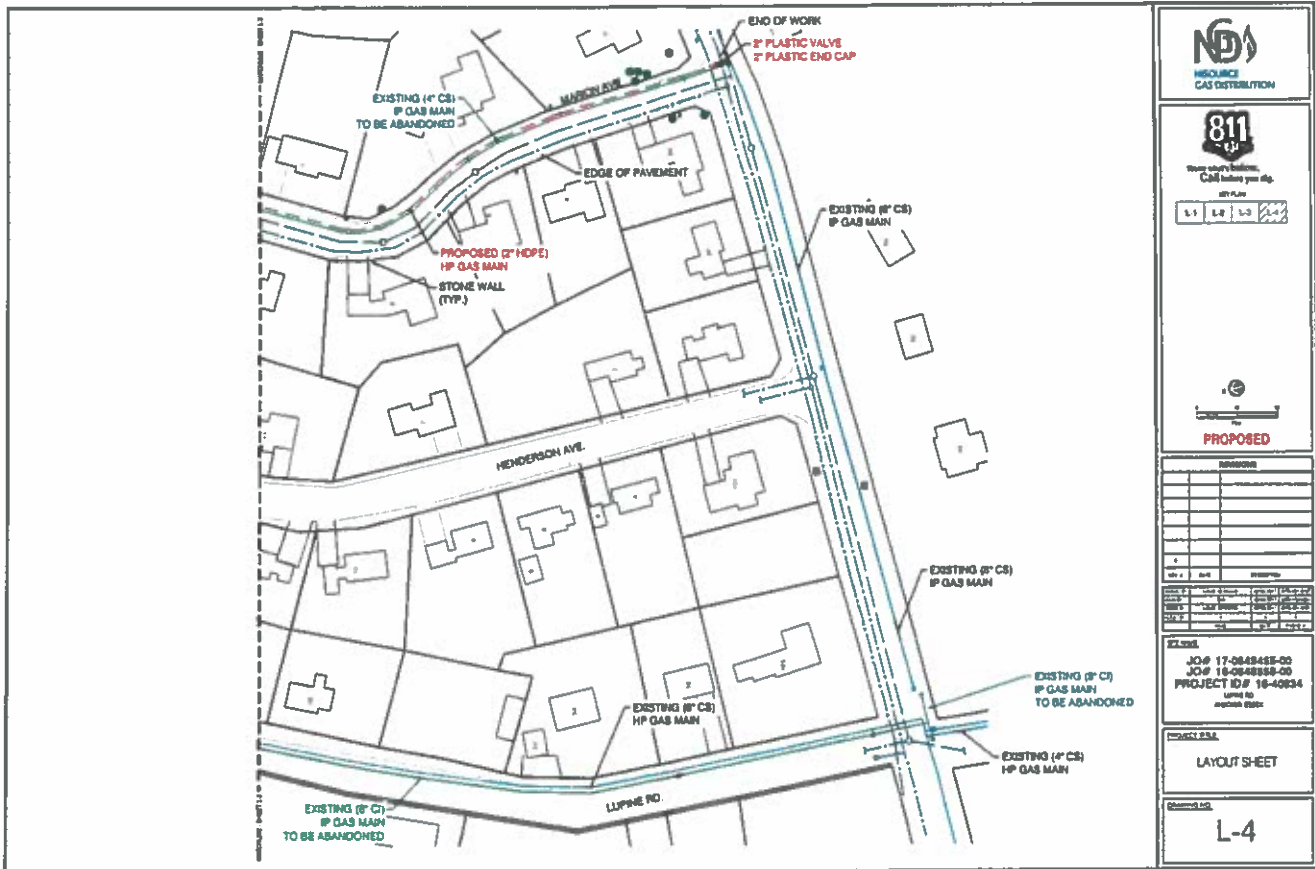


**PROPOSED**

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JOB NO.			
JO# 17-0848458-00			
JO# 18-0848858-00			
PROJECT ID# 18-40534			
LAYER NO. NUMBER SHEET			

CHECKED BY  
**LAYOUT SHEET**

REVISIONS  
**L-3**



REVISIONS			
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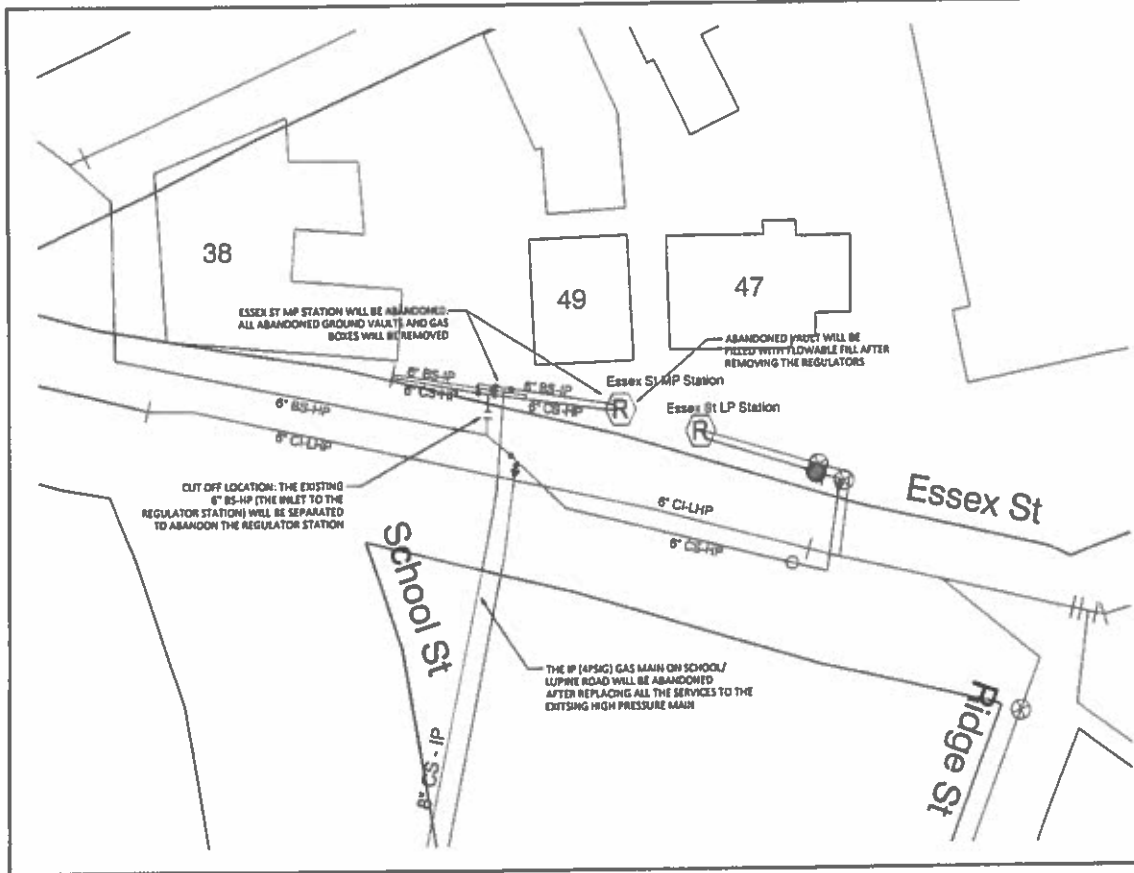
JO# 17-0648455-00  
JO# 18-0648555-00  
PROJECT ID# 18-40834  
LAYOUT SHEET

LAYOUT SHEET

L-4

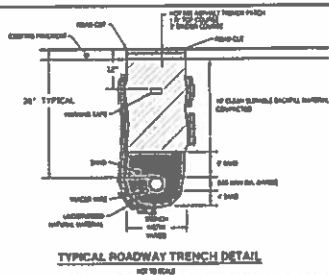


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JOB NO. 17-0848486-00			
JOB NO. 17-0848486-00			
PROJECT ID# 15-00034			
SHEET NO. 1 OF 1			
PROJECT TITLE			
LAYOUT SHEET			
REG PIT			



**AS-BUILT NOTES**  
(TO BE COMPLETED DURING CONSTRUCTION)

APPLICABLE PROPOSED TYPICAL	
<input type="checkbox"/> 10' TYPICAL	<input type="checkbox"/> 12' TYPICAL
<input type="checkbox"/> 14' TYPICAL	<input type="checkbox"/> 16' TYPICAL
<input type="checkbox"/> 18' TYPICAL	<input type="checkbox"/> 20' TYPICAL
<input type="checkbox"/> 22' TYPICAL	<input type="checkbox"/> 24' TYPICAL
<input type="checkbox"/> 26' TYPICAL	<input type="checkbox"/> 28' TYPICAL
<input type="checkbox"/> 30' TYPICAL	<input type="checkbox"/> 32' TYPICAL
<input type="checkbox"/> 34' TYPICAL	<input type="checkbox"/> 36' TYPICAL
<input type="checkbox"/> 38' TYPICAL	<input type="checkbox"/> 40' TYPICAL
<input type="checkbox"/> 42' TYPICAL	<input type="checkbox"/> 44' TYPICAL
<input type="checkbox"/> 46' TYPICAL	<input type="checkbox"/> 48' TYPICAL
<input type="checkbox"/> 50' TYPICAL	<input type="checkbox"/> 52' TYPICAL
<input type="checkbox"/> 54' TYPICAL	<input type="checkbox"/> 56' TYPICAL
<input type="checkbox"/> 58' TYPICAL	<input type="checkbox"/> 60' TYPICAL
<input type="checkbox"/> 62' TYPICAL	<input type="checkbox"/> 64' TYPICAL
<input type="checkbox"/> 66' TYPICAL	<input type="checkbox"/> 68' TYPICAL
<input type="checkbox"/> 70' TYPICAL	<input type="checkbox"/> 72' TYPICAL
<input type="checkbox"/> 74' TYPICAL	<input type="checkbox"/> 76' TYPICAL
<input type="checkbox"/> 78' TYPICAL	<input type="checkbox"/> 80' TYPICAL
<input type="checkbox"/> 82' TYPICAL	<input type="checkbox"/> 84' TYPICAL
<input type="checkbox"/> 86' TYPICAL	<input type="checkbox"/> 88' TYPICAL
<input type="checkbox"/> 90' TYPICAL	<input type="checkbox"/> 92' TYPICAL
<input type="checkbox"/> 94' TYPICAL	<input type="checkbox"/> 96' TYPICAL
<input type="checkbox"/> 98' TYPICAL	<input type="checkbox"/> 100' TYPICAL



PROPOSED

REVISIONS			
NO.	DATE	DESCRIPTION	BY

DATE	BY	DATE	BY

JO# 17-0848458-00  
JO# 18-0848528-00  
PROJECT ID# 18-49834  
ISSUED 08/2023

CONSTRUCTION  
DETAILS

D-1



COPY

(Space Above this Line Reserved for Registry of Deeds)

## QUITCLAIM DEED

Fieldstone Meadows Development Corp., a Massachusetts Corporation of P.O. Box 4011,  
Andover, Massachusetts 01810

for consideration paid and in full consideration of fewer than one hundred dollars (\$100.00)

hereby grants to the Inhabitants of the Town of Andover, to be under the care, custody and control and management of the Andover Conservation Commission under the provisions of Massachusetts General Laws, Chapter 40, Section 8C, having an address of 36 Bartlet Street, Andover, MA 01810.

### *with Quitclaim Covenants*

That certain parcel of land located at 5R Gregory Circle, Andover, Essex County, Massachusetts being shown as Parcel B on a plan of land entitled, "Property Line Plan, Gregory Circle, Andover, Mass." Owner & Applicant: Fieldstone Meadows Development Corp., Date: October 13, 2003; Scale: 1" = 40', prepared by Andover Consultants, Inc., which plan is recorded with the Essex North District Registry of Deeds as Plan Number 15228 ("Plan").

There is reserved unto the Grantor the fee interest in Gregory Circle; there is conveyed herewith the right to pass and repass and use Gregory Circle for all purposes for which streets and ways are commonly used in the Town of Andover. There is further conveyed herewith for the benefit of, to be appurtenant to, and to run with the title to Parcel B as shown on the Plan, an access and utility easement across the entirety of Parcel A as shown on the Plan.

Conveyed herewith is a non-exclusive pedestrian access easement running generally northwesterly from Lowell Junction Road to the 10' wide pedestrian access easement referenced in the following paragraph, over those portions of lots 1, 2, and 3 designated as "Existing 20' Wide Right of Way" on Plan 15288 and located along the southwesterly lot line of each of lots 1, 2, and 3. These easement rights were reserved to the grantor in the deed recorded at Book 12965, Page 59.

Also conveyed herewith is a 10' wide pedestrian access easement over, under, across and through those portions of Lot 3 and Lot 4 as shown on the Plan designated as "10' Wide Pedestrian Easement" on a plan recorded as Plan Number 16733, and created by reservation in deed recorded at Book 12965, Page 59. There is also conveyed herewith a 10 foot wide easement across the premises located at 11R Lowell Junction Road and created by reservation in deed recorded at Book 14264, Page 29 and conveyed to grantor by deed recorded herewith and prior hereto. The 10-foot wide easement is shown on sketch plan attached to deed recorded at Book 14871, Page 246. The purpose of the easement is to provide access from the land located to the West of the easement to the adjoining easement on the East as shown on Plan 16733.

Said real property is hereby conveyed to Grantee under the provisions of Massachusetts General Laws Chapter 40, Section 8C to be managed and controlled by the Conservation Commission of the Town of Andover, Massachusetts for the promotion and development of the natural resources and for the protection of the watershed resources of the Town of Andover, Massachusetts.

The premises hereby conveyed are a portion of the same premises described in deed to grantor dated February 21, 23 and 27, 2001, recorded in the Essex North District Registry of Deeds at Book 6039, Page 139.

This is not the conveyance of all or substantially all of the Massachusetts assets of an entity taxed as a corporation in Massachusetts. This is not homestead property. This conveyance is made in the ordinary course of business.

End of Text  
Signature Page Follows

Signed as a sealed instrument this 13 day of FEBRUARY, 2017.

Fieldstone Meadows Development Corp.



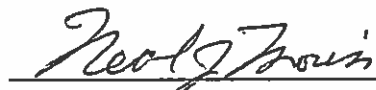
By: Todd D. Wacome  
Its: President and Treasurer

COMMONWEALTH OF MASSACHUSETTS

ESSEX, ss.

On this 13 day of FEBRUARY, 2017, before me, the undersigned notary public, personally appeared Todd D. Wacome, President and Treasurer of Fieldstone Meadows Development Corp., who proved to me through satisfactory evidence of identification, which was ☐ photographic identification with signature issued by a federal or state governmental agency, ☐ oath or affirmation of a credible witness, ☒ personal knowledge of the undersigned, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose and that he has the authority to sign in that capacity, and that this instrument is executed as the free act and deed of the grantor corporation.



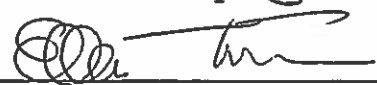
  
Notary Public NEAL J. MORIN  
My Commission Expires: 4/28/2017

Acceptance by Andover Conservation Commission

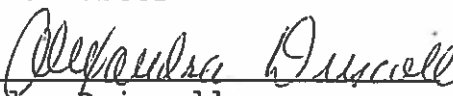
The foregoing conveyance is hereby accepted for and on behalf of the Inhabitants of the Town of Andover.

  
Donald D. Cooper

  
Thomas Brady

  
Ellen M. Townson

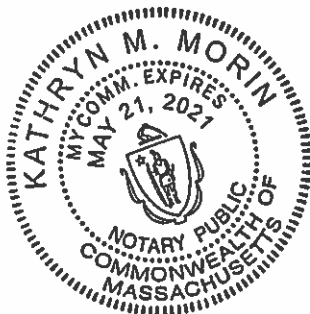
  
Kevin J. Porter

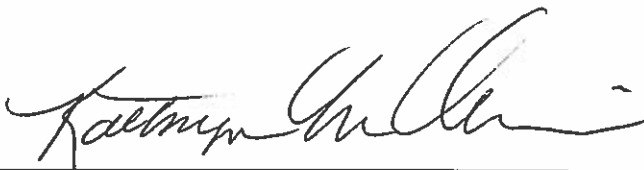
  
Alexandra Driscoll

COMMONWEALTH OF MASSACHUSETTS

Essex, ss.

On this 4th day of April, 2017, before me, the undersigned notary public, personally appeared Donald D. Cooper, Thomas Brady, Ellen M. Townson, Kevin J. Porter, and Alexandra Driscoll, members of the Town of Andover Conservation Commission who proved to me through satisfactory evidence of identification, which was ☐ photographic identification with signature issued by a federal or state government agency, ☒ oath or affirmation of a credible witness, ☐ personal knowledge of the undersigned, to be the persons whose names are signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose.



  
Name: Kathryn M. Morin  
Notary Public  
My commission expires: 5/21/2021

Acceptance by Board of Selectmen

The foregoing conveyance is hereby accepted for and on behalf of the Inhabitants of the Town of Andover.

\_\_\_\_\_  
Paul J. Salafia

\_\_\_\_\_  
Alexander J. Vispoli

\_\_\_\_\_  
Daniel H. Kowalski

\_\_\_\_\_  
Robert A. Landry

\_\_\_\_\_  
Laura M. Gregory

COMMONWEALTH OF MASSACHUSETTS

Essex, ss.

On this 15<sup>th</sup> day of May, 2017, before me, the undersigned notary public, personally appeared Paul J. Salafia, Alexander J. Vispoli, Daniel H. Kowalski, Robert A. Landry, and Laura M. Gregory who proved to me through satisfactory evidence of identification, which was ☐ photographic identification with signature issued by a federal or state government agency, ☐ oath or affirmation of a credible witness, ☐ personal knowledge of the undersigned, to be the persons whose names are signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Name:

Notary Public

My commission expires:

## COMMONWEALTH OF MASSACHUSETTS ~ STANDARD CONTRACT FORM



This form is jointly issued and published by the Executive Office for Administration and Finance (ANF), the Office of the Comptroller (CTR) and the Operational Services Division (OSD) as the default contract for all Commonwealth Departments when another form is not prescribed by regulation or policy. Any changes to the official printed language of this form shall be void. Additional non-conflicting terms may be added by Attachment. Contractors may not require any additional agreements, engagement letters, contract forms or other additional terms as part of this Contract without prior Department approval. Click on hyperlinks for definitions, instructions and legal requirements that are incorporated by reference into this Contract. An electronic copy of this form is available at [www.mass.gov/oaq](http://www.mass.gov/oaq) under Guidance For Vendors - Forms or [www.mass.gov/oaq](http://www.mass.gov/oaq) under OSD Forms.

<b>CONTRACTOR LEGAL NAME:</b> Town of Andover (and d/b/a):		<b>COMMONWEALTH DEPARTMENT NAME:</b> Div. of Ecological Restoration <b>MMARS Department Code:</b> FWE	
<b>Local Address:</b> (W-8, W-4, T&C): 36 Bartlett Street Andover, MA 01810		<b>Business Mailing Address:</b> 251 Causeway Street, Suite 400, Boston, MA 02114	
<b>Contract Manager:</b> Thor Raniuk		<b>Billing Address (if different):</b>	
<b>E-Mail:</b> <a href="mailto:IRaniuk@andoverma.gov">IRaniuk@andoverma.gov</a>		<b>Contract Manager:</b> Eileen Goldberg, Assistant Director	
<b>Phone:</b> 978-823-8225	<b>Fax:</b>	<b>E-Mail:</b> <a href="mailto:eileen.goldberg@state.ma.us">eileen.goldberg@state.ma.us</a>	
<b>Contractor Vendor Code:</b> VC6000191896		<b>Phone:</b> 817-826-1548	<b>Fax:</b> 817-826-1593
<b>Vendor Code Address ID (e.g. "AD001"):</b> AD 001 (Note: The Address ID must be set up for EFT payments.)		<b>MMARS Doc ID(s):</b> SHAWSHEENBALGRTF1617	
		<b>RFR/Procurement or Other ID Number:</b> RFR # RIV 2008-2	
<b>NEW CONTRACT</b> <b>PROCUREMENT OR EXCEPTION TYPE:</b> (Check one option only) <input type="checkbox"/> <u>Statewide Contract</u> (OSD or an OSD-designated Department) <input type="checkbox"/> <u>Collective Purchase</u> (Attach OSD approval, scope, budget) <input type="checkbox"/> <u>Department Procurement</u> (Includes State or Federal grants 815 CMR 2.00) (Attach RFR and Response or other procurement supporting documentation) <input type="checkbox"/> <u>Emergency Contract</u> (Attach justification for emergency, scope, budget) <input type="checkbox"/> <u>Contract Employee</u> (Attach Employment Status Form, scope, budget) <input type="checkbox"/> <u>Legislative/Legal or Other:</u> (Attach authorizing language/justification, scope and budget)		<b>X CONTRACT AMENDMENT</b> Enter Current Contract End Date <u>Prior to Amendment:</u> May 14, 2017 Enter Amendment Amount: \$ <u>30,000.00</u> (or "no change") <b>AMENDMENT TYPE:</b> (Check one option only. Attach details of Amendment changes.) <input checked="" type="checkbox"/> <u>Amendment to Scope or Budget</u> (Attach updated scope and budget) <input type="checkbox"/> <u>Interim Contract</u> (Attach justification for Interim Contract and updated scope/budget) <input type="checkbox"/> <u>Contract Employee</u> (Attach any updates to scope or budget) <input type="checkbox"/> <u>Legislative/Legal or Other:</u> (Attach authorizing language/justification and updated scope and budget)	
The following <b>COMMONWEALTH TERMS AND CONDITIONS</b> (T&C) has been executed, filed with CTR and is incorporated by reference into this Contract. <input checked="" type="checkbox"/> <u>Commonwealth Terms and Conditions</u> <input type="checkbox"/> <u>Commonwealth Terms and Conditions For Human and Social Services</u>			
<b>COMPENSATION:</b> (Check ONE option): The Department certifies that payments for authorized performance accepted in accordance with the terms of this Contract will be supported in the state accounting system by sufficient appropriations or other non-appropriated funds, subject to intercept for Commonwealth owed debts under 815 CMR 8.00. <input type="checkbox"/> <u>Rate Contract</u> (No Maximum Obligation. Attach details of all rates, units, calculations, conditions or terms and any changes if rates or terms are being amended.) <input checked="" type="checkbox"/> <u>Maximum Obligation Contract</u> Enter Total Maximum Obligation for total duration of this Contract (or new Total if Contract is being amended): \$ <u>340,728.00</u>			
<b>PROMPT PAYMENT DISCOUNTS (PPD):</b> Commonwealth payments are issued through EFT 45 days from invoice receipt. Contractors requesting accelerated payments must identify a PPD as follows: Payment issued within 10 days <input type="checkbox"/> % PPD; Payment issued within 15 days <input type="checkbox"/> % PPD; Payment issued within 20 days <input type="checkbox"/> % PPD; Payment issued within 30 days <input type="checkbox"/> % PPD. If PPD percentages are left blank, identify reason: <input type="checkbox"/> agree to standard 45 day cycle <input type="checkbox"/> statutory/legal or Ready Payments (G.L. c. 29, § 23A); <input checked="" type="checkbox"/> only initial payment (subsequent payments scheduled to support standard EFT 45 day payment cycle. See Prompt Pay Discounts Policy.)			
<b>BRIEF DESCRIPTION OF CONTRACT PERFORMANCE or REASON FOR AMENDMENT:</b> (Enter the Contract title, purpose, fiscal year(s) and a detailed description of the scope of performance or what is being amended for a Contract Amendment. Attach all supporting documentation and justifications.) The contract amendment removes funds and extends the contract and date to support project oversight and implementation for the Balmoral Dam Removal, Shawshen River Restoration Project, Andover, Massachusetts. The Town of Andover will perform the tasks as specified in Attachment A, as per the compliance provisions in Attachment B and per terms of RFR RIV 2008-2 for the MA Dept. of Fish and Game, Division of Ecological Restoration. Please see Attachment A for the approved Scope and Budget and Attachment B for compliance provision terms.			
<b>ANTICIPATED START DATE:</b> (Complete ONE option only) The Department and Contractor certify for this Contract, or Contract Amendment, that Contract obligations:			
<input checked="" type="checkbox"/> 1. may be incurred as of the <u>Effective Date</u> (latest signature date below) and no obligations have been incurred <u>prior to the Effective Date</u> . <input type="checkbox"/> 2. may be incurred as of <u>20</u> , a date <u>LATER</u> than the <u>Effective Date</u> below and no obligations have been incurred <u>prior to the Effective Date</u> . <input type="checkbox"/> 3. were incurred as of <u>20</u> , a date <u>PRIOR</u> to the <u>Effective Date</u> below, and the parties agree that payments for any obligations incurred prior to the <u>Effective Date</u> are authorized to be made either as settlement payments or as authorized reimbursement payments, and that the details and circumstances of all obligations under this Contract are attached and incorporated into this Contract. Acceptance of payments forever releases the Commonwealth from further claims related to these obligations.			
<b>CONTRACT END DATE:</b> Contract performance shall terminate as of <u>May 1, 2018</u> , with no new obligations being incurred after this date unless the Contract is properly amended, provided that the terms of this Contract and performance expectations and obligations shall survive its termination for the purpose of resolving any claim or dispute, for completing any negotiated terms and warranties, to allow any close out or transition performance, reporting, invoicing or final payments, or during any lapse between amendments.			
<b>CERTIFICATIONS:</b> Notwithstanding verbal or other representations by the parties, the "Effective Date" of this Contract or Amendment shall be the latest date that this Contract or Amendment has been executed by an authorized signatory of the Contractor, the Department, or a later Contract or Amendment Start Date specified above, subject to any required approvals. The Contractor makes all certifications required under the attached <u>Contractor Certifications</u> (incorporated by reference if not attached hereto) under the pains and penalties of perjury, agrees to provide any required documentation upon request to support compliance, and agrees that all terms governing performance of this Contract and doing business in Massachusetts are attached or incorporated by reference herein according to the following hierarchy of document precedence, the applicable <u>Commonwealth Terms and Conditions</u> , this Standard Contract Form including the <u>Instructions and Contractor Certifications</u> , the Request for Response (RFR) or other solicitation, the Contractor's Response, and additional negotiated terms, provided that additional negotiated terms will take precedence over the relevant terms in the RFR and the Contractor's Response only if made using the process outlined in <u>801 CMR 21.07</u> , incorporated herein, provided that any amended RFR or Response terms result in best value, lower costs, or a more cost effective Contract.			
<b>AUTHORIZING SIGNATURE FOR THE CONTRACTOR:</b>		<b>AUTHORIZING SIGNATURE FOR THE COMMONWEALTH:</b>	
X: _____ Date: _____ (Signature and Date Must Be Handwritten At Time of Signature)		X: _____ Date: _____ (Signature and Date Must Be Handwritten At Time of Signature)	
Print Name: <u>Andrew P. Flanagan</u>		Print Name: <u>Eileen Goldberg</u>	
Print Title: <u>Town Manager</u>		Print Title: <u>Assistant Director</u>	

# COMMONWEALTH OF MASSACHUSETTS ~ STANDARD CONTRACT FORM



## INSTRUCTIONS AND CONTRACTOR CERTIFICATIONS

The following instructions and terms are incorporated by reference and apply to this Standard Contract Form. Text that appears underlined indicates a "hyperlink" to an Internet or bookmarked site and are unofficial versions of these documents and Departments and Contractors should consult with their legal counsel to ensure compliance with all legal requirements. Using the Web Toolbar will make navigation between the form and the hyperlinks easier. Please note that not all applicable laws have been cited.

**CONTRACTOR LEGAL NAME (AND D/B/A):** Enter the Full Legal Name of the Contractor's business as it appears on the Contractor's W-9 or W-4 Form (Contract Employees only) and the applicable Commonwealth Terms and Conditions if Contractor also has a "doing business as" (d/b/a) name, BOTH the legal name and the "d/b/a" name must appear in this section.

**Contractor Legal Address:** Enter the Legal Address of the Contractor as it appears on the Contractor's W-9 or W-4 Form (Contract Employees only) and the applicable Commonwealth Terms and Conditions, which must match the legal address on the 10991 table in MMARS (or the Legal Address in HR/CMS for Contract Employee).

**Contractor Contract Manager:** Enter the authorized Contract Manager who will be responsible for managing the Contract. The Contract Manager should be an Authorized Signatory or, at a minimum, a person designated by the Contractor to represent the Contractor, receive legal notices and negotiate ongoing Contract issues. The Contract Manager is considered "Key Personnel" and may not be changed without the prior written approval of the Department. If the Contract is posted on COMMBUYS, the name of the Contract Manager must be included in the Contract on COMMBUYS.

**Contractor E-Mail Address/Phone/Fax:** Enter the electronic mail (e-mail) address, phone and fax number of the Contractor Contract Manager. This information must be kept current by the Contractor to ensure that the Department can contact the Contractor and provide any required legal notices. Notice received by the Contract Manager (with confirmation of actual receipt) through the listed address, fax number(s) or electronic mail address will meet any written legal notice requirements.

**Contractor Vendor Code:** The Department must enter the MMARS Vendor Code assigned by the Commonwealth. If a Vendor Code has not yet been assigned, leave this space blank and the Department will complete this section when a Vendor Code has been assigned. The Department is responsible under the Vendor File and W-9s Policy for verifying with authorized signatories of the Contractor, as part of contract execution, that the legal name, address and Federal Tax Identification Number (TIN) in the Contract documents match the state accounting system.

**Vendor Code Address ID:** (e.g., 'AD001') The Department must enter the MMARS Vendor Code Address ID identifying the payment remittance address for Contract payments, which MUST be set up for EFT payments PRIOR to the first payment under the Contract in accordance with the Bill Paying and Vendor File and W-9 policies.

**COMMONWEALTH DEPARTMENT NAME:** Enter the full Department name with the authority to obligate funds encumbered for the Contract.

**Commonwealth MMARS Alpha Department Code:** Enter the three (3) letter MMARS Code assigned to this Commonwealth Department in the state accounting system.

**Department Business Mailing Address:** Enter the address where all formal correspondence to the Department must be sent. Unless otherwise specified in the Contract, legal notice sent or received by the Department's Contract Manager (with confirmation of actual receipt) through the listed address, fax number(s) or electronic mail address for the Contract Manager will meet any requirements for legal notice.

**Department Billing Address:** Enter the Billing Address or email address if invoices must be sent to a different location. Billing or confirmation of delivery of performance issues should be resolved through the listed Contract Managers.

**Department Contract Manager:** Identify the authorized Contract Manager who will be responsible for managing the Contract, who should be an authorized signatory or an employee designated by the Department to represent the Department to receive legal notices and negotiate ongoing Contract issues.

**Department E-Mail Address/Phone/Fax:** Enter the electronic mail (e-mail) address, phone and fax number of the Department Contract Manager. Unless otherwise specified in the Contract, legal notice sent or received by the Contract Manager (with confirmation of actual receipt) through the listed address, fax number(s) or electronic mail address will meet any requirements for written notice under the Contract.

**MMARS Document ID(s):** Enter the MMARS 20 character encumbrance transaction number associated with this Contract which must remain the same for the life of the Contract. If multiple numbers exist for this Contract, identify all Doc IDs.

**RFR/Procurement or Other ID Number or Name:** Enter the Request for Response (RFR) or other Procurement Reference number, Contract ID Number or other reference/tracking number for this Contract or Amendment and will be entered into the Board Award Field in the MMARS encumbrance transaction for this Contract.

## NEW CONTRACTS (left side of Form):

Complete this section ONLY if this Contract is brand new. (Complete the **CONTRACT AMENDMENT** section for any material changes to an existing or an expired Contract, and for exercising options to renew or annual contracts under a multi-year procurement or grant program.)

**PROCUREMENT OR EXCEPTION TYPE:** Check the appropriate type of procurement or exception for this Contract. Only one option can be selected. See State Finance Law and General Requirements, Acquisition Policy and Fixed Assets, the Commodities and Services Policy and the Procurement Information Center (Department Contract Guidance) for details.

**Statewide Contract (OSD or an OSD-designated Department):** Check this option for a Statewide Contract under OSD, or by an OSD-designated Department.

**Collective Purchase approved by OSD:** Check this option for Contracts approved by OSD for collective purchases through federal, state, local government or other entities.

**Department Contract Procurement:** Check this option for a Department procurement including state grants and federal sub-grants under 815 CMR 2.00 and State Grants and Federal Subgrants Policy, Departmental Master Agreements (MA). If multi-Department user Contract, identify multi-Department use is allowable in Brief Description.

**Emergency Contract:** Check this option when the Department has determined that an unforeseen crisis or incident has arisen which requires or mandates immediate purchases to avoid substantial harm to the functioning of government or the provision of necessary or mandated services or whenever the health, welfare or safety of clients or other persons or serious damage to property is threatened.

**Contract Employee:** Check this option when the Department requires the performance of an individual Contractor, and when the planned Contract performance with an individual has been classified using the Employment Status Form (prior to the Contractor's selection) as work of a Contract Employee and not that of an Independent Contractor.

**Legislative/Legal or Other:** Check this option when legislation, an existing legal obligation, prohibition or other circumstance exempts or prohibits a Contract from being competitively procured, or identify any other procurement exception not already listed. Legislative "eemarks" exempt the Contract solely from procurement requirements, and all other Contract and state finance laws and policies apply. Supporting documentation must be attached to explain and justify the exemption.

## CONTRACT AMENDMENT (Right Side of Form)

Complete this section for any Contract being renewed, amended or to continue a lapsed Contract. All Contracts with available options to renew must be amended referencing the original procurement and Contract doc id, since all continuing contracts must be maintained in the same Contract file (even if the underlying appropriation changes each fiscal year.) See Amendments, Suspensions, and Termination Policy.

**Enter Current Contract End Date:** Enter the termination date of the Current Contract being amended, even if this date has already passed. (Note: Current Start Date is not requested since this date does not change and is already recorded in MMARS.)

**Enter Amendment Amount:** Enter the amount of the Amendment increase or decrease to a Maximum Obligation Contract. Enter "no change" for Rate Contracts or if no change.

**AMENDMENT TYPE:** Identify the type of Amendment being done. Documentation supporting the updates to performance and budget must be attached. Amendment to Scope or Budget: Check this option when renewing a Contract or executing any Amendment ("material change" in Contract terms) even if the Contract has lapsed. The parties may negotiate a change in any element of Contract performance or cost identified in the RFR or the Contractor's response which results in lower costs, or a more cost-effective or better value performance than was presented in the original selected response, provided the negotiation results in a better value within the scope of the RFR than what was proposed by the Contractor in the original selected response. Any "material" change in the Contract terms must be memorialized in a formal Amendment even if a corresponding MMARS transaction is not needed to support the change. Additional negotiated terms will take precedence over the relevant terms in the RFR and the Contractor's Response only if made using the process outlined in 801 CMR 21.07, incorporated herein, provided that any amended RFR or Response terms result in best value, lower costs, or a more cost effective Contract.

**Interim Contracts:** Check this option for an Interim Contract to prevent a lapse of Contract performance whenever an existing Contract is being re-procured but the new procurement has not been completed, to bridge the gap during implementation between an expiring and a new procurement, or to contract with an interim Contractor when a current Contractor is unable to complete full performance under a Contract.

**Contract Employee:** Check this option when the Department requires a renewal or other amendment to the performance of a Contract Employee.

**Legislative/Legal or Other:** Check this option when legislation, an existing legal obligation, prohibition or other circumstance exempts or prohibits a Contract from being competitively procured, or identify any other procurement exception not already listed. Legislative "eemarks" exempt the Contract solely from procurement requirements, and all other Contract and state finance laws and policies apply. Attach supporting documentation to explain and justify the exemption and whether Contractor selection has been publicly posted.

# COMMONWEALTH OF MASSACHUSETTS ~ STANDARD CONTRACT FORM



## COMMONWEALTH TERMS AND CONDITIONS

Identify which Commonwealth Terms and Conditions the Contractor has executed and is incorporated by reference into this Contract. This Form is signed only once and recorded on the Vendor Customer File (VCUST). See Vendor File and W-9s Policy.

## COMPENSATION

Identify if the Contract is a Rate Contract (with no stated Maximum Obligation) or a Maximum Obligation Contract (with a stated Maximum Obligation) and identify the Maximum Obligation. If the Contract is being amended, enter the new Maximum Obligation based upon the increase or decreasing Amendment. The Total Maximum Obligation must reflect the total funding for the dates of service under the contract, including the Amendment amount if the Contract is being amended. The Maximum Obligation must match the MMARS encumbrance. Funding and allotments must be verified as available and encumbered prior to incurring obligations. If a Contract includes both a Maximum Obligation component and Rate Contract component, check off both, specific Maximum Obligation amounts or amended amounts and Attachments must clearly outline the Contract breakdown to match the encumbrance.

## PAYMENTS AND PROMPT PAY DISCOUNTS

Payments are processed within a 45 day payment cycle through EFT in accordance with the Commonwealth Bill Paying Policy for investment and cash flow purposes. Departments may NOT negotiate accelerated payments and Payees are NOT entitled to accelerated payments UNLESS a prompt payment discount (PPD) is provided to support the Commonwealth's loss of investment earnings for this earlier payment, or unless a payments is legally mandated to be made in less than 45 days (e.g., construction contracts, Ready Payments under G.L. c. 29, s. 23A). See Prompt Pay Discounts Policy. PPD are identified as a percentage discount which will be automatically deducted when an accelerated payment is made. Reduced contract rates may not be negotiated to replace a PPD. If PPD fields are left blank please identify that the Contractor agrees to the standard 45 day cycle; a statutory/legal exemption such as Ready Payments (G.L. c. 29, s. 23A); or only an initial accelerated payment for reimbursements or start up costs for a grant, with subsequent payments scheduled to support standard EFT 45 day payment cycle. Financial hardship is not a sufficient justification to accelerate cash flow for all payments under a Contract. Initial grant or contract payments may be accelerated for the first invoice or initial grant installment, but subsequent periodic installments or invoice payments should be scheduled to support the Payee cash flow needs and the standard 45 day EFT payment cycle in accordance with the Bill Paying Policy. Any accelerated payment that does not provide for a PPD must have a legal justification in Contract file for audit purposes explaining why accelerated payments were allowable without a PPD.

## BRIEF DESCRIPTION OF CONTRACT PERFORMANCE

Enter a brief description of the Contract performance, project name and/or other identifying information for the Contract to specifically identify the Contract performance, match the Contract with attachments, determine the appropriate expenditure code (as listed in the Expenditure Classification Handbook) or to identify or clarify important information related to the Contract such as the Fiscal Year(s) of performance (ex. "FY2012" or "FY2012-14"). Identify settlements or other exceptions and attach more detailed justification and supporting documents. Enter "Multi-Department Use" if other Departments can access procurement. For Amendments, identify the purpose and what items are being amended. Merely stating "see attached" or referencing attachments without a narrative description of performance is insufficient.

## ANTICIPATED START DATE

The Department and Contractor must certify WHEN obligations under this Contract/Amendment may be incurred. Option 1 is the default option when performance may begin as of the Effective Date (latest signature date and any required approvals). If the parties want a new Contract or renewal to begin as of the upcoming fiscal year then list the fiscal year(s) (ex. "FY2012" or "FY2012-14") in the Brief Description section. Performance starts and encumbrances reflect the default Effective Date (if no FY is listed) or the later FY start date (if a FY is listed). Use Option 2 only when the Contract will be signed well in advance of the start date and identify a specific future start date. Do not use Option 2 for a fiscal year start unless it is certain that the Contract will be signed prior to fiscal year. Option 3 is used in lieu of the Settlement and Release Form when the Contract/Amendment is signed late, and obligations have already been incurred by the Contractor prior to the Effective Date for which the Department has either requested, accepted or deemed legally eligible for reimbursement, and the Contract includes supporting documents justifying the performance or proof of eligibility, and approximate costs. Any obligations incurred outside the scope of the Effective Date under any Option listed, even if the incorrect Option is selected, shall be automatically deemed a settlement included under the terms of the Contract and upon payment to the Contractor will release the Commonwealth from further obligations for the identified performance. All settlement payments require justification and must be under same encumbrance and object codes as the Contract payments. Performance dates are subject to G.L. c.4, s.9.

## CONTRACT END DATE

The Department must enter the date that Contract performance will terminate. If the Contract is being amended and the Contract End Date is not changing, this date must be re-entered again here. A Contract must be signed for at least the initial duration but not longer than the period of procurement listed in the RFR, or other solicitation document (if applicable). No new performance is allowable beyond the end date without an amendment, but the Department may allow a Contractor to complete minimal close out performance obligations if substantial performance has been made prior to the termination date of the Contract and prior to the end of the fiscal year in which payments are appropriated, provided that any close out performance is subject to appropriation and funding limits under state finance law, and CTR may adjust encumbrances and payments in the state accounting system to enable final close out payments. Performance dates are subject to G.L. c.4, s.9.

## CERTIFICATIONS AND EXECUTION

See Department Head Signature Authorization Policy and the Contractor Authorized Signatory Listing for policies on Contractor and Department signatures.

Authorizing Signature for Contractor/Date: The Authorized Contractor Signatory must (in their own handwriting and in ink) sign AND enter the date the Contract is signed. See section above under "Anticipated Contract Start Date". Acceptance of payment by the Contractor shall waive any right of the Contractor to claim the Contract/Amendment is not valid and the Contractor may not void the Contract. Rubber stamps, typed or other images are not acceptable. Proof of Contractor signature authorization on a Contractor Authorized Signatory Listing may be required by the Department if not already on file.

Contractor Name /Title: The Contractor Authorized Signatory's name and title must appear legibly as it appears on the Contractor Authorized Signatory Listing.

Authorizing Signature For Commonwealth/Date: The Authorized Department Signatory must (in their own handwriting and in ink) sign AND enter the date the Contract is signed. See section above under "Anticipated Start Date". Rubber stamps, typed or other images are not accepted. The Authorized Signatory must be an employee within the Department legally responsible for the Contract. See Department Head Signature Authorization. The Department must have the legislative funding appropriated for all the costs of this Contract or funding allocated under an approved interdepartmental Service Agreement (ISA). A Department may not contract for performance to be delivered to or by another state department without specific legislative authorization (unless this Contract is a Statewide Contract). For Contracts requiring Secretariat signoff, evidence of Secretariat signoff must be included in the Contract file.

Department Name /Title: Enter the Authorized Signatory's name and title legibly.

## CONTRACTOR CERTIFICATIONS AND LEGAL REFERENCES

Notwithstanding verbal or other representations by the parties, the "Effective Date" of this Contract or Amendment shall be the latest date that this Contract or Amendment has been executed by an authorized signatory of the Contractor, the Department, or a later Contract or Amendment Start Date specified, subject to any required approvals. The Contractor makes all certifications required under this Contract under the pains and penalties of perjury, and agrees to provide any required documentation upon request to support compliance, and agrees that all terms governing performance of this Contract and doing business in Massachusetts are attached or incorporated by reference herein:

**Commonwealth and Contractor Ownership Rights.** The Contractor certifies and agrees that the Commonwealth is entitled to ownership and possession of all "deliverables" purchased or developed with Contract funds. A Department may not relinquish Commonwealth rights to deliverables nor may Contractors sell products developed with Commonwealth resources without just compensation. The Contract should detail all Commonwealth deliverables and ownership rights and any Contractor proprietary rights.

**Qualifications.** The Contractor certifies it is qualified and shall at all times remain qualified to perform this Contract; that performance shall be timely and meet or exceed industry standards for the performance required, including obtaining requisite licenses, registrations, permits, resources for performance, and sufficient professional, liability, and other appropriate insurance to cover the performance. If the Contractor is a business, the Contractor certifies that it is listed under the Secretary of State's website as licensed to do business in Massachusetts, as required by law.

**Business Ethics and Fraud, Waste and Abuse Prevention.** The Contractor certifies that performance under this Contract, in addition to meeting the terms of the Contract, will be made using ethical business standards and good stewardship of taxpayer and other public funding and resources to prevent fraud, waste and abuse.

**Collusion.** The Contractor certifies that this Contract has been offered in good faith and without collusion, fraud or unfair trade practices with any other person, that any actions to avoid or frustrate fair and open competition are prohibited by law, and shall be grounds for rejection or disqualification of a Response or termination of this Contract.

**Public Records and Access** The Contractor shall provide full access to records related to performance and compliance to the Department and officials listed under Executive Order 195 and G.L. c. 11, s.12 seven (7) years beginning on the first day after the final payment under this Contract or such longer period necessary for the resolution of any litigation, claim, negotiation, audit or other inquiry involving this Contract. Access to view Contractor



# COMMONWEALTH OF MASSACHUSETTS ~ STANDARD CONTRACT FORM



records related to any breach or allegation of fraud, waste and/or abuse may not be denied and Contractor can not claim confidentiality or trade secret protections solely for viewing but not retaining documents. Routine Contract performance compliance reports or documents related to any alleged breach or allegation of non-compliance, fraud, waste, abuse or collusion may be provided electronically and shall be provided at Contractor's own expense. Reasonable costs for copies of non-routine Contract related records shall not exceed the rates for public records under 950 C.M.R. 32.00.

**Debarment.** The Contractor certifies that neither it nor any of its subcontractors are currently debarred or suspended by the federal or state government under any law or regulation including, Executive Order 147; G.L. c. 29, s. 29F; G.L. c. 30, s. 39R; G.L. c. 149, s. 27C; G.L. c. 149, s. 44C; G.L. c. 149, s. 148B and G.L. c. 152, s. 25C.

**Applicable Laws.** The Contractor shall comply with all applicable state laws and regulations including but not limited to the applicable Massachusetts General Laws; the Official Code of Massachusetts Regulations; Code of Massachusetts Regulations (unofficial); 901 CMR 21.00 (Procurement of Commodity and Service Procurements, including Human and Social Services); 815 CMR 2.00 (Grants and Subsidies); 808 CMR 1.00 (Compliance, Reporting and Auditing for Human And Social Services); ACPA Standards; confidentiality of Department records under G.L. c. 66A; and the Massachusetts Constitution Article XVIII if applicable.

**Invoices.** The Contractor must submit invoices in accordance with the terms of the Contract and the Commonwealth Bill Paying Policy. Contractors must be able to reconcile and properly attribute concurrent payments from multiple Departments. Final invoices in any fiscal year must be submitted no later than August 15<sup>th</sup> for performance made and received (goods delivered, services completed) prior to June 30<sup>th</sup>, in order to make payment for that performance prior to the close of the fiscal year to prevent reversion of appropriated funds. Failure to submit timely invoices by August 15<sup>th</sup> or other date listed in the Contract shall authorize the Department to issue an estimated payment based upon the Department's determination of performance delivered and accepted. The Contractor's acceptance of this estimated payment releases the Commonwealth from further claims for these invoices. If budgetary funds revert due to the Contractor's failure to submit timely final invoices, or for disputing an estimated payment, the Department may deduct a penalty up to 10% from any final payment in the next fiscal year for failure to submit timely invoices.

**Payments Subject To Appropriation.** Pursuant to G.L. c. 29 s. 26, s. 27 and s. 29, Departments are required to expend funds only for the purposes set forth by the Legislature and within the funding limits established through appropriation, allotment and subsidiary, including mandated allotment reductions triggered by G.L. c. 29, s. 9C. A Department cannot authorize or accept performance in excess of an existing appropriation and allotment, or sufficient non-appropriated available funds. Any oral or written representations, commitments, or assurances made by the Department or any other Commonwealth representative are not binding. The Commonwealth has no legal obligation to compensate a Contractor for performance that is not requested and is intentionally delivered by a Contractor outside the scope of a Contract. Contractors should verify funding prior to beginning performance.

**Intercept.** Contractors may be registered as Customers in the Vendor file if the Contractor owes a Commonwealth debt. Unresolved and undisputed debts, and overpayments of Contract payments that are not reimbursed timely shall be subject to intercept pursuant to G.L. c. 7A, s. 3 and 815 CMR 9.00. Contract overpayments will be subject to immediate intercept or payment offset. The Contractor may not penalize any state Department or assess late fees, cancel a Contract or other services if amounts are intercepted or offset due to recoupment of an overpayment, outstanding taxes, child support, other overdue debts or Contract overpayments.

**Tax Law Compliance.** The Contractor certifies under the pains and penalties of perjury tax compliance with Federal tax laws; state tax laws including but not limited to G.L. c. 62C, G.L. c. 62C, s. 49A; compliance with all state tax laws, reporting of employees and contractors, withholding and remitting of tax withholdings and child support and is in good standing with respect to all state taxes and returns due; reporting of employees and contractors under G.L. c. 62E, withholding and remitting child support including G.L. c. 119A, s. 12; TJR 05-11: New Independent Contractor Provisions and applicable TJRs.

**Bankruptcy, Judgments, Potential Structural Changes, Pending Legal Matters and Conflicts.** The Contractor certifies it has not been in bankruptcy and/or receivership within the last three calendar years, and the Contractor certifies that it will immediately notify the Department in writing at least 45 days prior to filing for bankruptcy and/or receivership, any potential structural change in its organization, or if there is any risk to the solvency of the Contractor that may impact the Contractor's ability to timely fulfill the terms of this Contract or Amendment. The Contractor certifies that at any time during the period of the Contract the Contractor is required to affirmatively disclose in writing to the Department Contract Manager the details of any judgment, criminal conviction, investigation or litigation pending against the Contractor or any of its officers, directors, employees, agents, or subcontractors, including any potential conflicts of interest of which the Contractor has knowledge, or learns of during the Contract term. Law firms or Attorneys providing legal services are required to identify any potential conflict with representation of any Department client in accordance with Massachusetts Board of Bar Overseers (BBO) rules.

**Federal Anti-Lobbying and Other Federal Requirements.** If receiving federal funds, the

Contractor certifies compliance with federal anti-lobbying requirements including 31 USC 1352; other federal requirements; Executive Order 11248; Air Pollution Act; Federal Water Pollution Control Act and Federal Employment Laws.

**Protection of Personal Data and Information.** The Contractor certifies that all steps will be taken to ensure the security and confidentiality of all Commonwealth data for which the Contractor becomes a holder, either as part of performance or inadvertently during performance, with special attention to restricting access, use and disbursement of personal data and information under G.L. c. 93H and c. 66A and Executive Order 504. The Contractor is required to comply with G.L. c. 93I for the proper disposal of all paper and electronic media, backups or systems containing personal data and information, provided further that the Contractor is required to ensure that any personal data or information transmitted electronically or through a portable device be properly encrypted using (at a minimum) Information Technology Division (ITD) Protection of Sensitive Information, provided further that any Contractor having access to credit card or banking information of Commonwealth customers certifies that the Contractor is PCI compliant in accordance with the Payment Card Industry Council Standards and shall provide confirmation compliance during the Contract, provide further that the Contractor shall immediately notify the Department in the event of any security breach including the unauthorized access, disbursement, use or disposal of personal data or information, and in the event of a security breach, the Contractor shall cooperate fully with the Commonwealth and provide access to any information necessary for the Commonwealth to respond to the security breach and shall be fully responsible for any damages associated with the Contractor's breach including but not limited to G.L. c. 214, s. 3B.

**Corporate and Business Filings and Reports.** The Contractor certifies compliance with any certification, filing, reporting and service of process requirements of the Secretary of the Commonwealth, the Office of the Attorney General or other Departments as related to its conduct of business in the Commonwealth; and with its incorporating state (or foreign entity).

**Employer Requirements.** Contractors that are employers certify compliance with applicable state and federal employment laws or regulations, including but not limited to G.L. c. 5, s. 1 (Prevailing Wages for Printing and Distribution of Public Documents); G.L. c. 7, s. 22 (Prevailing Wages for Contracts for Meat Products and Clothing and Apparel); minimum wages and prevailing wage programs and payments; unemployment insurance and contributions; workers' compensation and insurance, child labor laws, AGO fair labor practices; G.L. c. 149 (Labor and Industries); G.L. c. 150A (Labor Relations); G.L. c. 151 and 455 CMR 2.00 (Minimum Fair Wages); G.L. c. 151A (Employment and Training); G.L. c. 151B (Unlawful Discrimination); G.L. c. 151E (Business Discrimination); G.L. c. 152 (Workers' Compensation); G.L. c. 153 (Liability for Injuries); 29 USC c. 8 (Federal Fair Labor Standards); 29 USC c. 28 and the Federal Family and Medical Leave Act.

**Federal And State Laws And Regulations Prohibiting Discrimination** including but not limited to the Federal Equal Employment Opportunity (EEO) Laws the Americans with Disabilities Act; 42 U.S.C. Sec. 12101 et seq., the Rehabilitation Act, 29 USC c. 18 s. 794, 29 USC c. 18 s. 701; 29 USC c. 14, 623; the 42 USC c. 45; (Federal Fair Housing Act); G.L. c. 151B (Unlawful Discrimination); G.L. c. 151E (Business Discrimination); the Public Accommodations Law G.L. c. 272, s. 92A; G.L. c. 272, s. 98 and 98A, Massachusetts Constitution Article CXIV and G.L. c. 93, s. 103; 47 USC c. 5, sec. II, Part II, s. 255 (Telecommunication Act); Chapter 149, Section 105D, G.L. c. 151C, G.L. c. 272, Section 92A, Section 98 and Section 98A, and G.L. c. 111, Section 199A, and Massachusetts Disability-Based Non-Discrimination Standards For Executive Branch Entities, and related Standards and Guidance, authorized under Massachusetts Executive Order or any disability-based protection arising from state or federal law or precedent. See also MCAD and MCAD Links and Resources.

**Small Business Purchasing Program (SBPP).** A Contractor may be eligible to participate in the SBPP, created pursuant to Executive Order 523, if qualified through the SBPP COMMBUYS subscription process at: www.commbuys.com and with acceptance of the terms of the SBPP participation agreement.

**Limitation of Liability for Information Technology Contracts (and other Contracts as Authorized).** The Information Technology Mandatory Specifications and the IT Acquisition Accessibility Contract Language are incorporated by reference into Information Technology Contracts. The following language will apply to Information Technology contracts in the U01, U02, U03, U04, U05, U06, U07, U08, U09, U10, U75, U98 object codes in the Expenditure Classification Handbook or other Contracts as approved by CTR or OSD. Pursuant to Section 11. Indemnification of the Commonwealth Terms and Conditions, the term "other damages" shall include, but shall not be limited to, the reasonable costs the Commonwealth incurs to repair, return, replace or seek cover (purchase of comparable substitute commodities and services) under a Contract. "Other damages" shall not include damages to the Commonwealth as a result of third party claims, provided, however, that the foregoing in no way limits the Commonwealth's right of recovery for personal injury or property damages or patent and copyright infringement under Section 11 nor the Commonwealth's ability to join the contractor as a third party defendant. Further, the term "other damages" shall not include, and in no event shall the contractor be liable for, damages for the Commonwealth's use of contractor provided products or services, loss of Commonwealth records, or data (or other intangible property), loss of use of equipment, lost revenue, lost savings or lost profits of the Commonwealth. In no event shall "other

# COMMONWEALTH OF MASSACHUSETTS ~ STANDARD CONTRACT FORM



damages" exceed the greater of \$100,000, or two times the value of the product or service (as defined in the Contract scope of work) that is the subject of the claim. Section 11 sets forth the contractor's entire liability under a Contract. Nothing in this section shall limit the Commonwealth's ability to negotiate higher limitations of liability in a particular Contract, provided that any such limitation must specifically reference Section 11 of the Commonwealth Terms and Conditions. In the event the limitation of liability conflicts with accounting standards which mandate that there can be no cap of damages, the limitation shall be considered waived for that audit engagement. These terms may be applied to other Contracts only with prior written confirmation from the Operational Services Division or the Office of the Comptroller. The terms in this Clarification may not be modified.

**Northern Ireland Certification.** Pursuant to G.L. c. 7 s. 22C for state agencies, state authorities, the House of Representatives or the state Senate, by signing this Contract the Contractor certifies that it does not employ ten or more employees in an office or other facility in Northern Ireland and if the Contractor employs ten or more employees in an office or other facility located in Northern Ireland the Contractor certifies that it does not discriminate in employment, compensation, or the terms, conditions and privileges of employment on account of religious or political belief; and it promotes religious tolerance within the work place, and the eradication of any manifestations of religious and other illegal discrimination; and the Contractor is not engaged in the manufacture, distribution or sale of firearms, munitions, including rubber or plastic bullets, tear gas, armored vehicles or military aircraft for use or deployment in any activity in Northern Ireland.

**Pandemic, Disaster or Emergency Performance.** In the event of a serious emergency, pandemic or disaster outside the control of the Department, the Department may negotiate emergency performance from the Contractor to address the immediate needs of the Commonwealth even if not contemplated under the original Contract or procurement. Payments are subject to appropriation and other payment terms.

**Consultant Contractor Certifications (For Consultant Contracts "HH" and "NN" and "U05" object codes subject to G.L. Chapter 29 s. 29A).** Contractors must make required disclosures as part of the RFP Response or using the Consultant Contractor Mandatory Submission Form.

**Attorneys.** Attorneys or firms providing legal services or representing Commonwealth Departments may be subject to G.L. c. 30, s. 65, and if providing litigation services must be approved by the Office of the Attorney General to appear on behalf of a Department, and shall have a continuing obligation to notify the Commonwealth of any conflicts of interest arising under the Contract.

**Subcontractor Performance.** The Contractor certifies full responsibility for Contract performance, including subcontractors, and that comparable Contract terms will be included in subcontracts, and that the Department will not be required to directly or indirectly manage subcontractors or have any payment obligations to subcontractors.

## EXECUTIVE ORDERS

For covered Executive state Departments, the Contractor certifies compliance with applicable Executive Orders (see also Massachusetts Executive Orders), including but not limited to the specific orders listed below. A breach during period of a Contract may be considered a material breach and subject Contractor to appropriate monetary or Contract sanctions.

**Executive Order 481. Prohibiting the Use of Undocumented Workers on State Contracts.** For all state agencies in the Executive Branch, including all executive offices, boards, commissions, agencies, Departments, divisions, councils, bureaus, and offices, now existing and hereafter established, by signing this Contract the Contractor certifies under the pains and penalties of perjury that they shall not knowingly use undocumented workers in connection with the performance of this Contract; that, pursuant to federal requirements, shall verify the immigration status of workers assigned to a Contract without engaging in unlawful discrimination; and shall not knowingly or recklessly alter, falsify, or accept altered or falsified documents from any such worker.

**Executive Order 130. Anti-Boycott.** The Contractor warrants, represents and agrees that during the time this Contract is in effect, neither it nor any affiliated company, as hereafter defined, participates in or cooperates with an international boycott (See [RC 5 999(b)(3)-(4), and IRS Audit Guidelines Boycotts] or engages in conduct declared to be unlawful by G.L. c. 151E, s. 2. A breach in the warranty, representation, and agreement contained in this paragraph, without limiting such other rights as it may have, the Commonwealth shall be entitled to rescind this Contract. As used herein, an affiliated company shall be any business entity of which at least 51% of the ownership interests are directly or indirectly owned by the Contractor or by a person or persons or business entity or entities directly or indirectly owning at least 51% of the ownership interests of the Contractor, or which directly or indirectly owns at least 51% of the ownership interests of the Contractor.

**Executive Order 344. Hiring of State Employees By State Contractors.** Contractor certifies compliance with both the conflict of interest law G.L. c. 268A specifically s. 5 (f) and this order, and includes limitations regarding the hiring of state employees by private companies contracting with the Commonwealth. A privatization contract shall be deemed to include a specific prohibition against the hiring at any time during the term of Contract, and for any position in the Contractor's company, any state management employee who is, was, or will be involved in the preparation of the RFP, the negotiations leading to the awarding of the

Contract, the decision to award the Contract, and/or the supervision or oversight of performance under the Contract.

**Executive Order 444. Disclosure of Family Relationships With Other State Employees.** Each person applying for employment (including Contract work) within the Executive Branch under the Governor must disclose in writing the names of all immediate family related to immediate family by marriage who serve as employees or elected officials of the Commonwealth. All disclosures made by applicants hired by the Executive Branch under the Governor shall be made available for public inspection to the extent permissible by law by the official with whom such disclosure has been filed.

**Executive Order 504. Regarding the Security and Confidentiality of Personal Information.** For all Contracts involving the Contractor's access to personal information, as defined in G.L. c. 93H, and personal data, as defined in G.L. c. 66A, owned or controlled by Executive Department agencies, or access to agency systems containing such information or data (herein collectively "personal information"), Contractor certifies under the pains and penalties of perjury that the Contractor (1) has read Commonwealth of Massachusetts Executive Order 504 and agrees to protect any and all personal information; and (2) has reviewed all of the Commonwealth Information Technology Division's Security Policies. Notwithstanding any contractual provision to the contrary, in connection with the Contractor's performance under this Contract, for all state agencies in the Executive Department, including all executive offices, boards, commissions, agencies, departments, divisions, councils, bureaus, and offices, now existing and hereafter established, the Contractor shall: (1) obtain a copy, review, and comply with the contracting agency's Information Security Program (ISP) and any pertinent security guidelines, standards, and policies; (2) comply with all of the Commonwealth of Massachusetts Information Technology Division's "Security Policies" (3) communicate and enforce the contracting agency's ISP and such Security Policies against all employees (whether such employees are direct or contracted) and subcontractors; (4) implement and maintain any other reasonable appropriate security procedures and practices necessary to protect personal information to which the Contractor is given access by the contracting agency from the unauthorized access, destruction, use, modification, disclosure or loss; (5) be responsible for the full or partial breach of any of these terms by its employees (whether such employees are direct or contracted) or subcontractors during or after the term of this Contract, and any breach of these terms may be regarded as a material breach of this Contract; (6) in the event of any unauthorized access, destruction, use, modification, disclosure or loss of the personal information (collectively referred to as the "unauthorized use"): (a) immediately notify the contracting agency if the Contractor becomes aware of the unauthorized use; (b) provide full cooperation and access to information necessary for the contracting agency to determine the scope of the unauthorized use; and (c) provide full cooperation and access to information necessary for the contracting agency and the Contractor to fulfill any notification requirements. Breach of these terms may be regarded as a material breach of this Contract, such that the Commonwealth may exercise any and all contractual rights and remedies, including without limitation indemnification under Section 11 of the Commonwealth's Terms and Conditions, withholding of payments, Contract suspension, or termination. In addition, the Contractor may be subject to applicable statutory or regulatory penalties, including and without limitation, those imposed pursuant to G.L. c. 93H and under G.L. c. 214, s. 3B for violations under M.G.L. c. 68A.

**Executive Orders 523, 524 and 526.** Executive Order 526 (Order Regarding Non-Discrimination, Diversity, Equal Opportunity and Affirmative Action which supersedes Executive Order 478). Executive Order 524 (Establishing the Massachusetts Supplier Diversity Program which supersedes Executive Order 390). Executive Order 523 (Establishing the Massachusetts Small Business Purchasing Program.) All programs, activities, and services provided, performed, licensed, chartered, funded, regulated, or contracted for by the state shall be conducted without unlawful discrimination based on race, color, age, gender, ethnicity, sexual orientation, gender identity or expression, religion, creed, ancestry, national origin, disability, veteran's status (including Vietnam-era veterans), or background. The Contractor and any subcontractors may not engage in discriminatory employment practices; and the Contractor certifies compliance with applicable federal and state laws, rules, and regulations governing fair labor and employment practices; and the Contractor commits to purchase supplies and services from certified minority or women-owned businesses, small businesses, or businesses owned by socially or economically disadvantaged persons or persons with disabilities. These provisions shall be enforced through the contracting agency, OSD, and/or the Massachusetts Commission Against Discrimination. Any breach shall be regarded as a material breach of the contract that may subject the contractor to appropriate sanctions.

**Scope of Services**

**Town of Andover  
Shawsheen River Restoration Project – Balmoral Dam Removal  
Andover, Massachusetts  
December 2015  
Amended November 2016  
Amended April, 2017**

This amendment updates the contract as amended November 2016 to extend the end date of the grant contract to May 1, 2018 and adjust the grant amount.

**I. PROJECT INFORMATION AND APPROACH**

**Statement of Qualifications**

The Town of Andover (Town) has been one of the leading proponents of the Shawsheen River Restoration project since its inception in 2008. As the owner of the property adjoining the Balmoral Dam, the Town co-nominated the project along with the non-profit Center for Ecosystem Restoration (CER) for Priority Project status under RFR RIV 2008-2. Since that time, the Town has provided hundreds of hours of staff time and other services to advance the project with DER and others.

**Project Purpose**

The Massachusetts Division of Ecological Restoration (DER) and the Center for Ecosystem Restoration are leading a partnership of the Town of Andover, NOAA Fisheries, US Fish and Wildlife Service, the MA Division of Fisheries and Wildlife, the Shawsheen River Watershed Association, and Trout Unlimited to remove Balmoral Dam and the Marland Place Dam. This group forms the project technical team as relates to the scope of this grant.

The goals of the restoration project are:

- Restore historic runs of native migratory fish such as river herring and American shad to the Shawsheen River;
- Restore river ecosystems in the Shawsheen and Merrimack Rivers;
- Improve fresh and salt-water fisheries of Massachusetts;
- Improve the environment and communities of northeastern Massachusetts;
- Reduce risks to life and property in Andover posed by aging dam structures.

In 2014, Inter-Fluve, Inc. completed 70% design plans for both of the dam removals. Later that year, the Andover Conservation Commission issued Orders of Conditions permitting the dam removals. Subsequent work by DER and CER to secure other needed permits is ongoing.

The Town of Andover is in the process of securing all assurances and agreements necessary to remove the Balmoral Dam.

**Project Background**

This project was selected as priority project through RFR # RIV 2008-2. Since that time, the project has advanced through several phases of design development. Each was accompanied by various forms of public outreach. In addition to the design engineering work, historical and archeological resources have been characterized and plans developed to protect those historical resources during implementation of the restoration project. Accordingly, communication with the MA Historical Commission and other related entities has been forwarded by the project's federal partners; first NOAA, then the US Fish and Wildlife Service.

### **Project Funding**

Funding for this award is provided in part by The Hurricane Sandy Coastal Resiliency Competitive Grant Program. The grant program supports projects that reduce communities' vulnerability to the growing risks from coastal storms, sea level rise, flooding, erosion and associated threats through strengthening natural ecosystems that also benefit fish and wildlife. The program, funded by the Hurricane Sandy disaster relief appropriation through the Department of the Interior (DOI), funding source FC. A062 U.S, is administered by the National Fish and Wildlife Foundation (NFWF); the DER is in turn, sub-awarding funds from Award # 42671 in the amount of \$303,226.00 to the Town of Andover to support bid assistance, project oversight, historical resources oversight and implementation.

Additionally DER is sub-awarding \$12,500 from the Corporate Wetlands Restoration Partnership. The remaining contractual amount of \$25,000 will be paid from DER funds.

The Town of Andover will perform the following:

## **II. TASKS**

### **Worked to be Performed**

This grant is intended to be used for the implementation of the Balmoral Dam Removal Project. All bid solicitations and subsequent contracts made using these funds must be reviewed and approved in writing by DER.

The Town of Andover will contract with a construction contractor (whose qualifications are accepted by DER) to implement the work described in the design plans and technical specifications developed by Inter-Fluve, Inc. and included in the 100% design submittal including any addenda issued during the bid process as well as in accordance with permit requirements. Any deviations from these plans must be approved first by the design engineer, the Town of Andover, and the DER.

Additional tasks related to the Balmoral Dam Removal Project may be necessary and allowable under this contract for services including but not limited to construction oversight by the design engineer, oversight and documentation related to historical resources, materials testing, utility relocation, maintenance of vegetation and plantings, adaptive management and site repair, purchase of materials and or supplies, rental of equipment, and other activities not specifically designated on the design plans, but necessary for construction. Any request for support of activities outside of the plans, bid documents, or addenda deemed necessary for the successful

completion of the project should be submitted in writing to the DER for approval of the use of these grants funds for that purpose. Any activities not contained in the design plans and not approved in writing by the DER prior to implementation will not be reimbursed.

The Town of Andover will cooperate with DER and other project partners to manage the project site in a manner constant with the goals and policies of the Massachusetts Division of Ecological Restoration and all applicable permits and laws.

#### **Deliverables**

1. The Town of Andover shall provide DER with bi-weekly updates via email from the date of the notice to proceed to the construction contractor through completion of construction. The update shall be no more than one page in length, detailing the previous weeks' construction activities, issues raised during construction, solutions to same, and any potential future issues.
2. Weekly construction meeting minutes may substitute for the bi-weekly update. This update may be provided by the Project Engineer on behalf of the Town of Andover.
3. The Town of Andover shall provide DER with relevant invoices from all contractors engaged using these funds.
4. The Town of Andover shall comply with all other reporting requirements as established in Section III below.

### **III SEMI ANNUAL REPORTS AND MATCHING CONTRIBUTIONS**

The Town of Andover (Town) committed a minimum of **\$10,054.00** in match as cash or in-kind services to the project described in this scope of work. Matching Contributions consist of cash, contributed goods and services, volunteer hours, and/or property raised and spent for the project. The Town must track match as it is spent and provide information on match expended during the reporting period to DER in the semiannual reports. The Town must retain detailed time records for contributed services and original receipts and appraisals of any purchases contributed as match. Time records and receipts of match should be provided to DER at the reporting intervals detailed below.

#### **Reporting**

Reports are due to DER on

- April 1, 2016
- October 15, 2016
- April 1, 2017
- April 1, 2018

Each report must include

1. A one or two paragraph summary of accomplishments over the last six months
2. The amount of matching contributions expended towards the commitment outlined above and a signed statement attesting to the expenditure(s).
3. Number of people reached through outreach, training, or technical assistance

4. Number of youth and or veteran hires (as defined within #11 of Attachment B).

A final summary report is due at the grant's conclusion on or before May 1, 2018.

#### IV DESIGNATED REPRESENTATIVES

For the *Grantee*:

Ihor Raniuk  
Public Works  
36 Bartlet Street  
Andover, MA 01810  
978-623-8225  
[IRaniuk@andoverma.gov](mailto:IRaniuk@andoverma.gov)

For the DER:

Nick Wildman  
Restoration Specialist  
Division of Ecological Restoration  
251 Causeway St., Suite 400  
Boston, MA 02114  
617-626-1527  
[nick.wildman@state.ma.us](mailto:nick.wildman@state.ma.us)

#### V BUDGET & PAYMENT

If necessary, a single initial payment of up to \$30,000 of the granted funds may be requested prior to expenditure provided that 1) the Town demonstrates an immediate need, i.e. that those funds will be expended within 60 days of payment by DER to the Town and 2) DER's subsequent request for approval of same is approved by NFWF.

For all other costs related to this grant, the Town will submit a Request for Reimbursement to DER via hard copy or emailed PDF. With any Request for Reimbursement, the Town of Andover will provide a brief status report detailing the work performed and include copies of receipts, invoices, and photographic or other backup for all charges shown. Additional reporting requirements are included in this contract that are separate from, but related to, the required elements of any Request for Reimbursement. All reporting may be submitted electronically.

This contract and scope of work will extend until May 1, 2018. Project costs are based on the scope of work presented herein with a not-to-exceed total of \$340,726.00. Payment will be made on a reimbursement basis. Any change to this allocation of funds must be approved by DER in writing PRIOR to expenditure.

Personnel	\$0
Equipment	\$0

Contractual	\$340,726.00
Materials/ Supplies	\$0
Travel	\$0
Other	\$0
Total	\$340,726.00

## VI. SCHEDULE

Work may begin after the contract is fully executed by the Department of Fish and Game, Division of Ecological Restoration and a Notice-to-Proceed has been provided to the Town. All work must be completed by May 1, 2018.

Invoices for work performed prior to June 30, 2016 must be received by July 31, 2016.

Invoices for work between July 1, 2016 and June 30, 2017 must be received by July 31, 2017.

Invoice for work between July 1, 2017 and May 1, 2018 must be received by May 15, 2018.

## VII SPECIAL PROVISIONS

### Publicity and acknowledgement of support

The Town of Andover gives DER and NFWF the right and authority to publicize NFWF and DER's financial support for this Grant Agreement and the Project in press releases, publications, and other public communications. The Town of Andover agrees to (i) give appropriate credit to NFWF, DER and any Funding Sources identified in this Grant Agreement for their financial support in any and all press releases, publications, annual reports, signage, video credits, dedications, and other public communications regarding this Grant Agreement or any of the project deliverables associated with this Grant Agreement; and (ii) include the disclaimer provided for herein. The Town of Andover must obtain prior approval for the use relating to this Award of the DER and NFWF logo.

### Disclaimers

All information submitted for publication or other public releases of information regarding this Grant Agreement shall carry the following disclaimer: "The views and conclusions contained in this document are those of the authors and should not be interpreted as representing the opinions or policies of the US Government or the National Fish and Wildlife Foundation and its funding sources. Mention of trade names or commercial products does not constitute their endorsement by the National Fish and Wildlife Foundation or its funding sources".

### Terms and Acceptance

Funding for this project comes primarily from the National Fish and Wildlife Foundation Award # 42671, funding source FC. A062 U.S. department of Interior, FWS awarded to the Commonwealth of Massachusetts Division of Ecological Restoration. The DER is in turn, sub-

awarding these funds to the Town of Andover. Acceptance of this sub-grant award from the MA DER carriers with it the responsibility to be aware of and comply with the terms and conditions applicable to the award including terms and condition incorporated into contract either by direct citation or by reference to the following: Federal regulations, program legislation or regulation; and special award terms and conditions. The terms and conditions likewise flow down to any the sub-awards and sub-recipients to Town of Andover. See Attachment B.



## COMPLIANCE PROVISIONS

The following provisions flow down to this contract from the National Fish and Wildlife Foundation Award # 42671, funding source FC. A062 U.S. department of Interior, FWS-CFDA# 15.153, as it is funded in whole or in part by the afore-cited Federal grant. The subrecipient or contractor's signature on this Contract Indicates compliance with the following as well as provides assurance that these compliance provisions will be included with any associated sub-contracts which the contractor may enter into with this funding.

These provisions are communicated by the Office of Management and Budget (OMB) to federal agencies through OMB Circulars. The Circulars, and links to the corresponding or replacement section of the Code of Federal Regulations can be found at ([http://www.whitehouse.gov/omb/grants\\_circulars](http://www.whitehouse.gov/omb/grants_circulars)). Additional provisions herein are communicated by the Department of Interior, USFWS and the National Fish and Wildlife Foundation to grantees.

1. All project activities must comply with all applicable Federal laws, regulations, ordinances and policies, including but not limited to environmental laws such as the requirements of the national environmental Policy Act (NPA), Section 7 of Endangered Species Act (ESA) and Section 106 of the National Historic Preservation Act (NHPA), and Section 106 of the National Historic Preservation Act (NHPA), and applicable executive orders. As a condition of this award, the Recipient and any contractors and sub-recipients must not begin any potentially impactful work (physical construction activity) related to this award until the DER Project Manager has received and reviewed all compliance documents and notified you in writing that such work can begin.

2. *Equal Employment Opportunity* – The Recipient must comply with E.O. 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR, 1964-1965 Comp., p. 339), as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR Part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

3. *Copeland "Anti-Kickback" Act (18 U.S.C. 874 and 40 U.S.C. 276c)* – All contracts and subgrants in excess of \$2,000 for construction or repair awarded by recipients and subrecipients must include a provision for compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to the Federal awarding agency. States and local governments are required to comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) in all contracts and subgrants for construction or repair, regardless of dollar value.

4. *Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333)* – Where applicable, all contracts awarded by recipients in excess of \$2,000 for construction contracts and in excess of \$2,500 for other contracts that involve the employment of mechanics or laborers must include a provision for compliance with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 CFR Part 5). Under Section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

**5. *Rights to Inventions Made Under a Contract or Agreement*** – With respect to non-profit organizations, contracts or agreements for the performance of experimental, developmental, or research work must provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency. States and local governments shall take notice of awarding agency requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contract, and any requirements and regulations pertaining to copyrights and rights in data.

**6. *Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)*** – Non-profit subgrantees and contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. The disclosures are forwarded from tier to tier up to the recipient. Also see #16 below.

**7. *Debarment and Suspension (E.O. 12549 and E.O. 12689) 2 CFR Part 1400***, Government-wide Debarment and Suspension (Non-procurement)– This contract is subject to subpart C of 15 CFR Part 26, “Government wide Debarment and Suspension (Non Procurement).” No contract may be made to parties listed on the General Services Administration’s List of Parties Excluded from Federal Procurement or Non-procurement Programs in accordance with E.O. 12549 and E.O. 12689, “Debarment and Suspension.” This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. By signing this Contract, the contractor/vendor certifies that it and its principal employees are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. Certification. The contractor/vendor certifies that they and any sub-contractor’s they may employ for the work under this contract, is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. If you are unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this Agreement.

**8. *Drug-free Workplace (40 CFR §36.200 -36.230) – 2 CFR Part 1401***, Requirements for Drug-Free Workplace (Financial Assistance) Recipients other than individuals, must: (a) make a good faith effort, on a continuing basis, to maintain a drug-free workplace. Contractor must agree to do so as a condition for receiving any award. Contractor agrees to take the following measures: (1) Publish a drug-free workplace statement and establish a drug-free awareness program for your employees (see Sec. Sec. 36.205 through 36.220); and (2) Take actions concerning employees who are convicted of violating drug statutes in the workplace (see Sec. 36.225). (b) Identify all known workplaces under your Federal awards and subawards (see Sec. 36.230).

**9. *Small and minority business firms.*** It is a national policy to award a fair share of contracts to small and minority business firms. The Department of the Interior is strongly committed to the objectives of this policy and encourages all recipients of its grants and cooperative agreements to take affirmative steps to ensure such fairness. As a condition of award, the Recipient and sub-recipients shall take all necessary affirmative steps to assure that minority firms, women’s business enterprises, and labor surplus area firms are used when possible. Affirmative steps shall include: (1) Placing qualified small and minority businesses and women’s business enterprises on solicitation lists; (2) Assuring that small and minority businesses, and women’s business enterprises are solicited whenever they are potential sources; (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women’s business enterprises; (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women’s business enterprises; (5) Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce as appropriate, and (6) Requiring prime contractors, if

subcontracts are to be let, to take the affirmative steps listed in (1) through (5) above.

**10. Reporting Veteran and Youth hires.** Subcontractors will be required to provide DER with the number of Veteran and Youth hired under this contract. Youth is defined as an individual aged 15 to 25 years old. A veteran is defined as a person who served in the active duty military and who was discharged or released therefrom under conditions other than dishonorable. National Guard members who served on active duty are included in this definition. In addition to the number of applicable veteran and youth hires, the contract ID and dollar amount of the contract must be included in the report due to DER on a bi-annual basis.

**11. DUNS Number and FFATA (2 CFR Part 25, and 2 CFR Part 170).** In accordance with the Federal Funding Accountability and Transparency Act (FFATA) of 2006, sub-award recipients must obtain a Data Universal Numbering System (DUNS) number through <http://fedgov.dnb.com/webform>. Additionally, as required by FFATA, awards to subrecipients over \$25,000 require specific information be reported. DER must, and in turn the subrecipient must, collect information regarding executive compensation amounts for the five most highly compensated executives of the subrecipient organization should certain threshold reporting requirements be met:

- a. the organization received 80% or more of its annual gross revenues from Federal Financial Assistance or Federal Procurement Contracts subject to the Transparency Act (2 CFR 170.320) subawards, and/or
- b. the organization received \$25MM or more in annual gross revenues from Federal Financial Assistance or Federal Procurement Contracts subject to the Transparency Act (2 CFR 170.320) and subawards, and The public does NOT have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the US Security and Exchange Commission total compensation filings at [www.sec.gov/answers/execomp.htm](http://www.sec.gov/answers/execomp.htm).)
- c. See attachment C

**12. Cost Principles.** Financial assistance awards and subawards are subject to the cost principles in the following Federal regulations, as applicable to the recipient organization type:

- 2 CFR Part 220, Cost Principles for Educational Institutions
- 2 CFR Part 225, Cost Principles for States and Local Governments
- 2 CFR Part 230, Cost Principles for Non-Profit Organizations
- 45 CFR Part 74, Appendix E, Principles for Determining Costs Applicable to Research and Development Under Grants and Contracts with Hospitals
- 48 CFR 1, Subpart 31.2, Contracts with Commercial Organizations. These documents are available on the Internet at <http://www.ecfr.gov/>.

**13. Statement Regarding A-133 Single Audit Reporting.** Following OMB Circular A-133, ([http://www.whitehouse.gov/sites/default/files/omb/assets/a133/a133\\_revised\\_2007.pdf](http://www.whitehouse.gov/sites/default/files/omb/assets/a133/a133_revised_2007.pdf)), all U.S. states, local governments, federally-recognized Indian tribal governments, and non-profit organizations expending \$500,000 USD or more in Federal award funds in a year must submit an A-133 Single Audit report for that year through the Federal Audit Clearinghouse's Internet Data Entry System. All U.S. state, local government, federally-recognized Indian tribal government and non-profit applicants must provide a statement regarding if your organization was/was not required to submit an A-133 Single Audit report for the organization's most recently closed fiscal year and, if so, state if that report is available on the Federal Audit Clearinghouse Single Audit Database website (<http://harvester.census.gov/sac/>) or will be provided with submission of signed agreement. The Statement as described above will be satisfied with submission of Attachment D and if applicable, a copy of the most recent A-133 audit.

**14. Assurances.** Include the signed and dated Assurances form: Assurances for Construction Programs (SF-424D). Attachment D. Signing this form does not mean that all items on the form are applicable. Some of the assurances may not be applicable to your organization and/or your project or program. Attachment E must be signed and submitted.

15. *Certification and Disclosure of Lobbying Activities.* Under Title 31 of the United States Code, Section 1352, an applicant or recipient must not use any federally appropriated funds (both annually appropriated and continuing appropriations) or matching funds under a grant or cooperative agreement award to pay any person for lobbying in connection with the award. Lobbying is defined as influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress connection with the award. 43 CFR 18, New Restrictions on Lobbying: Submission of an application and or acceptance of award also represents the applicant's certification of the statements in 43 CFR Part 18, -Certification Regarding Lobbying. Attachment F must be signed and submitted.

16. *Award Term for Trafficking in Persons ;* Contractor and any subcontractors or sub-recipients shall comply with the provisions of section 106(a) of the Trafficking Victims Protection Act of 2000, as amended (22 U.S.C. 7104(g)) (codified at 2 CFR Part 175).

17. *Prohibition on Members of Congress Making Contracts with Federal Government.* No member of or delegate to Congress or Resident Commissioner shall be admitted to any share or part of this award, or to any benefit that may arise therefrom; this provision shall not be construed to extend to an award made to a corporation for the public's general benefit. 41 USC §6306,

18. *Executive Order 13513.* Federal Leadership on Reducing Text Messaging while Driving: Recipients are encouraged to adopt and enforce policies that ban text messaging while driving, including conducting initiatives of the type described in section 3(a) of the order.

19. *General and Administrative Guidelines.*

- 43 CFR Part 12, Subpart A, Administrative and Audit Requirements and Cost Principles for Assistance Programs
- OMB Circular A-102, Grants and Cooperative Agreements with State and Local Governments
- 43 CFR Part 12, Subpart C, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments

20. *4.9 Pilot Program for Enhancement of Recipient and Subrecipient Employee Whistleblower Protection*

41 United States Code (U.S.C.) 4712, Pilot Program for Enhancement of Recipient and Subrecipient Employee Whistleblower Protection: This requirement applies to all awards issued after July 1, 2013 and shall be in effect until January 1, 2017.

a) This award and related subawards and contracts over the simplified acquisition threshold and all employees working on this award and related subawards and contracts over the simplified acquisition threshold are subject to the whistleblower rights and remedies in the pilot program on award recipient employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (P.L. 112-239).

b) Recipients, and their subrecipients and contractors awarded contracts over the simplified acquisition threshold related to this award, shall inform their employees in writing, in the predominant language of the workforce, of the employee whistleblower rights and protections under 41 U.S.C. 4712.

c) The recipient shall insert this clause, including this paragraph (c), in all subawards and contracts over the simplified acquisition threshold related to this award.

21. *Sub Contracts or Subawards*

When making subcontracts, Recipient (1) shall abide by all required granting and contracting procedures, including but not limited to those requirements of OMB Circular A-110 ([https://www.whitehouse.gov/omb/circulars\\_a110/](https://www.whitehouse.gov/omb/circulars_a110/)); (2) shall ensure that all applicable federal, state and local requirements are properly flowed down to the subawardee or contractor, including but not limited to the provisions of OMB Circular A-110 and in the case of contracts, the required contractual provisions of OMB Circular A-110, Appendix A; and (3) shall ensure that such subaward or contracting complies with the requirements below concerning Compliance with Anti-Corruption, Anti-Money Laundering, Terrorist Financing, and Trafficking in Persons Statutes and Other Restrictions. NFWF Subrecipient shall also include in any subaward or contract a

similar provision to this requiring the use of proper grant and contracting procedures and subsequent flow down of federal, state and local requirements to lower-tiered subawardees and contractors.

- The Recipient shall ensure that no payments have been or will be made or received by the subcontractor or subawardee in connection with this Agreement in violation of the U.S. Foreign Corrupt Practices Act of 1977, as amended (15 U.S.C. §dd-1 *et seq.*), the UK Bribery Act 2010, or any other applicable anti-corruption laws or regulations in the US.
- Recipient shall not provide material support or resources directly or indirectly to, or knowingly permit any funds provided by NFWF pursuant to this contract to be transferred to, any individual, corporation or other entity that the Recipient knows, or has reason to know, commits, attempts to commit, advocates, facilitates, or participates in any terrorist activity, or has committed, attempted to commit, advocated, facilitated or participated in any terrorist activity, including, but not limited to, the individuals and entities (1) on the master list of Specially Designated Nationals and Blocked Persons maintained by the U.S. Department of Treasury's Office of Foreign Assets Control, which list is available at <http://www.treas.gov/offices/enforcement/ofac>; (2) on the consolidated list of individuals and entities maintained by the "1267 Committee" of the United Nations Security Council at [http://www.un.org/sc/committees/1267/aq\\_sanctions\\_list.shtml](http://www.un.org/sc/committees/1267/aq_sanctions_list.shtml); (3) on the consolidated list maintained by the U.S. Department of Commerce at [http://export.gov/ecr/eg\\_main\\_023148.asp](http://export.gov/ecr/eg_main_023148.asp), or (4) on such other list as NFWF may identify from time to time.
- The Recipient shall ensure that its activities under this contract comply with all applicable U.S. laws, regulations and executive orders regarding money laundering, terrorist financing, U.S. sanctions laws, U.S. export controls, restrictive trade practices, boycotts, and all other economic sanctions or trade restrictions promulgated from time to time by means of statute, executive order, regulation or as administered by the U.S. Department of State, the Office of Foreign Assets Control, U.S. Department of the Treasury, or the Bureau of Industry and Security, U.S. Department of Commerce.

**22. Clean Air Act (42 U.S.C. 7401 *et seq.*) and the Federal Water Pollution Control Act (33 U.S.C. 1251 *et seq.*), as amended –** Contracts and subgrants of amounts in excess of \$100,000 shall contain a provision that requires the recipient to agree to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 *et seq.*) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 *et seq.*). Violations shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

## SUBRECIPIENT FFATA FORM

As required by the Federal Accountability and Transparency Act of 2006 (FFATA), DER must report to the federal government specific information associated with the awards we make to our subrecipients for awards over \$25,000, some of which we already have. We still must collect information regarding executive compensation amounts for the five most highly compensated executives of your organization should you meet certain threshold reporting requirements as listed below.

Subrecipient Legal Name

DUNS<sup>1</sup> Number- 9 Digits *(Required)*


## Executive Compensation Questions

1. Our organization received 80% or more of its annual gross revenues from Federal Financial Assistance or Federal Procurement Contracts subject to the Transparency Act (2 CFR 170.320) and subawards.  
☐ YES    ☐ NO
2. Our organization received \$25MM or more in annual gross revenues from Federal Financial Assistance or Federal Procurement Contracts subject to the Transparency Act (2 CFR 170.320) and subawards.  
☐ YES    ☐ NO
3. The public does NOT have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. *(To determine if the public has access to the compensation information, see the US Security and Exchange Commission total compensation filings at [www.sec.gov/answers/excomp.htm](http://www.sec.gov/answers/excomp.htm).)*  
☐ YES    ☐ NO

If you responded **YES** to **ALL Three Executive Compensation Questions Above**, complete the table below for your top 5 highest compensated executives.

Five Most Highly Compensated <sup>2</sup> Executives <sup>3</sup>		
Name of Executive	Title	Preceding Completed Fiscal Year's Compensation

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Printed Title: \_\_\_\_\_

See the definitions<sup>1,2,3</sup> on the next page in order to properly complete the above table.

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## DEFINITIONS

### <sup>1</sup>DUNS Number

A DUNS number is a unique, site specific, nine-digit identification number provided by Dun & Bradstreet (D&B). Since 1994, the federal government has required that organizations, including nonprofits, state governments and local governments, must obtain a DUNS number if they are a recipient of federal funds. A DUNS number can be obtained for free by visiting the following website: [www.dnb.com](http://www.dnb.com).

### <sup>2</sup>Compensation

Total compensation is defined as the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):

- i. **Salary and Bonus.**
- ii. **Awards of stock, stock options, and stock appreciation rights.**  
Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
- iii. **Earnings for services under non-equity incentive plans.**  
This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
- iv. **Change in pension value.**  
This is the change in present value of defined benefit and actuarial pension plans.
- v. **Above-market earnings on deferred compensation which is not tax-qualified.**
- vi. **Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.**

### <sup>3</sup>Executive

Officers, managing partners or any other employees in management positions at your organization.

### A-133 Audit Report Form

In accordance with the compliance requirements as part of your receipt of federal funds via a subaward from the Division of Ecological Restoration (DER), and because Federal regulation require the monitoring of it subrecipients, DER is asking that your organization complete and return this Audit Certifications. If a single audit is required, then submission of the most current version must be provided to DER.

Federal law and regulations require that each domestic entity that expends \$750,000 or more of Federal funds in any fiscal year must have an audit (commonly referred to as a "single audit") of its financial statements and Federal awards that meet the requirements of the Office of Management and Budget's Circular A-133.

1. Did your organization expend \$750,000.00 or more of Federal funds in its most recently completed fiscal year? Yes ☐ No ☐  
If yes, please forward a copy (or web link) of the sing audit report to DER with your signed copy of this certification, or as soon as it is available.
  
2. Do you expect that your organization will expend \$750,000.00 or more of Federal funds in this current fiscal year? Yes ☐ No ☐  
If yes, when do you expect the sing audit report to be available Month                      Yr.  
Please forward a copy (or web link) as soon as it is available.

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Organization: \_\_\_\_\_

Date: \_\_\_\_\_

Please submit this completed Certification and any accompanying single audit reports along with the executed subgrant agreement via mail or email to: [megan.sampson@state.ma.us](mailto:megan.sampson@state.ma.us)

Division of Ecological Restoration, Dept of Fish and Game  
Attn: Megan Sampson  
251 Causeway Street, Suite 400  
Boston, MA 02114



**ASSURANCES - CONSTRUCTION PROGRAMS**

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0042), Washington, DC 20503.

**PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.**

**NOTE:** Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the Awarding Agency. Further, certain Federal assistance awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the assistance; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will not dispose of, modify the use of, or change the terms of the real property title, or other interest in the site and facilities without permission and instructions from the awarding agency. Will record the Federal interest in the title of real property in accordance with awarding agency directives and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure non-discrimination during the useful life of the project.
4. Will comply with the requirements of the assistance awarding agency with regard to the drafting, review and approval of construction plans and specifications.
5. Will provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work conforms with the approved plans and specifications and will furnish progress reports and such other information as may be required by the assistance awarding agency or State.
6. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
7. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
8. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
9. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
10. Will comply with all Federal statutes relating to non-discrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681 1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

11. Will comply, or has already complied, with the requirements of Titles 11 and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal and federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
12. Will comply with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
13. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333) regarding labor standards for federally-assisted construction sub-agreements.
14. Will comply with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
15. Will comply with environmental standards which may be prescribed pursuant to the following: (a) Institution of environmental quality control measures under the

National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).

16. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
17. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1986, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
18. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
19. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE	
APPLICANT ORGANIZATION		DATE SUBMITTED

**43 CFR Appendix A to Part 18—Certification Regarding Lobbying**

***Certification for Contracts, Grants, Loans, and Cooperative Agreements Greater than \$100,000***

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

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**SIGNATURE of AUTHORIZED REPRESENTATIVE**

**PRINT NAME**